289 02

THE

HISTORY and PROCEEDINGS

OF THE

HOUSE of LORDS,

FROM THE

RESTORATION in 1660,

TOTHE

PRESENT TIME.

CONTAINING.

The most Remarkable Morions, Speeches, Debates, Orders and Resolutions.

Together with all the PROTESTS during that Period.

AND THE

Numbers Pro and Con upon each Division.

WITH

An Account of the Promotions of the feveral PEERs, and the State of the PEERAGE in every Reign.

Connected with the Transactions of the COMMONS, and HISTORY of the TIMES.

AND

Illustrated with HISTORICAL NOTES and OBSERVATIONS.

Together with the DEBATES in the Parliament of SCOTLAND relating to the UNION.

To each VOLUME are added proper INDEXES.

VOLUME the SECOND, from 169% to 1714.

LONDON:

Printed for EBENEZER TIMBERLAND, in Ship-Yard, Temple-Bar, and fold by the Bookfellers in Town and Country 1742.

envigations, haviorali

TAR IT

HOUSE, of LORENS

RESTORATION IN TOSS.

dicini li kalaana

Therese I are seen to see the see that the see the see

CAN CREATE TO SECOND



THE

CONTENTS

FROM

November the 14th, 1967,

TC

The End of the Reign of Queen ANNI.

The Third Seffion of King WILLIAM's Third Parliament.

HE Lords Address; and King's Answer, Page 1. Earl of Macclesfield's Case; and Plea, 2. Protest thereon, 3. The Trials of Gaudet and others at the Bar, ibid. Protest thereon, 4. Bill for settling the East India Trade order'd to be read a second Time; and Protest thereon, ibid.

The Fourth Parliament of King William.

Lords Address; and King's Answer, 6. Earl of Warwick and Lord Mohun tried and acquitted, 7. Bill for granting an Aid to his Majesty for disbanding the Army; and Protest thereon, ibid.

Second Session of the Fourth Parliament of K. William, 8. Williamson against the King, Judgment reversed; and Protest thereon, ibid. Settlement of the Scotch Colony at Darien, ibid. Debate, Protest, and Address thereon, 9. King's Answer, 10. Bill to dissolve the Duke of Norfolk's Marriage; and Protest thereon, 11. The said Duke's Case, ibid. Bill for granting an Aid to his Majesty by Irish Forseitures and a Land-Tax; and Protest thereon, 15. Free Conserence on the said Bill; and Protest thereon, 16. Duke of Gloucester's Death, 19.

The Fifth Parliament of King William.

Lords Address; and King's Answer, 20. Countess of Anglesea to bring in a Bill of Separation; and Protest thereon, ibid.

ibid. Capt. Norris's Suspension taken off; and Protest thereon, 21. Debate on the Partition-Treaty, 22. Facts as to the faid Treaty flated; and Protest thereon, 23. Third Head; and Protest thereon, 24 Question relating to the French King's Acceptance of the King of Spain's Will; and Protest thereon, 25. Address touching the Treaty of Partition; and Protest thereon, ibid. Counter-Address to one of the Commons, for removing certain Lords from the King's Presence and Councils; and Protest thereon, 26. Last Protestation ordered to be expunged, ibid. Protest thereon, 27. The faid Counter-Address and Controversy occasioned by the King's returning no Answer, ibid. First and second Paragraphs of an Answer to the Commons, debated; and Protest thereon, 28. Last Paragraph; and Protest thereon, ibid. Resolution not to have a Committee of both Houses in relation to the Trials of the impeached Lords; and Protest thereon, 29. No Lord upon his Trial to be without the Bar; and Protest thereon, ibid. Message to the Commons for a free Conference, ibid. Protest thereon, 30. Resolution not to have a Committee of both Houses infisted upon; and Protest thereon, ibid. Lord Haversham to be declared innecent of the Commons Charge, unless it be prosecuted; and Protest thereon, ibid. Printed Votes of the Commons, debated; and Protest thereon, 31. King James dies, and his Son is proclaim'd by the French King, ibid.

The Sixth Parliament of King William.

Lords Address, 32. King's Answer, 33. Late King James's Wife attainted; and Protest thereon, ibid, Bill for the Security of his Majesty's Person; and Protest thereon, 34. Death of King William, 35. Queen Anne proclaimed, ibid. Great Alterations at Court, ibid. Lords Address on the Declaration of War with France, ibid. Queen's Answer, 36. Lords Resolution concerning false Reports of the deceased King, ibid. Presented to the Queen; and her Majesty's Answer, 37. Lords Proceedings in repect to a Book called, The History of the late Parliament, ibid. Lords Proceedings in respect to a Pamphlet called, Tom Double, &c. 39. Lords censure the Animadversions upon a Sermon on the 30th of January, 41. Lords censure Dr. Bincke's Sermon, ibid. Lords centure a Book about inviting over the Elector of Hanover, 43. Exploits abroad, 44.

The First Parliament of Queen Anne.

Lords Address, 44. Queen's Answer, 45. Lords Address to the Queen about the Bishop of Worcester; and the Queen's Answer thereto, ibid. Their Vote thereon, ibid. Clause

d

f

5

-

e

ı-ı

1.

-

ft

e

18

1-

d

d

g

or

4. d.

ne

6. ed

128

d,

gs

ds

of id.

n-

d-

he

d.

Clause touching the Prince of Denmark's Capacity, not to be left out of the Bill, 45. Protest thereon, 46. Protest against the Clauses relating to the Grants, ibid. Squire and Thompson's Petition, relating to Lord Wharton's Appeal, difmiffed; and Protest thereon, 47. Bill for qualifying Members of the House of Commons, ibid. Protest thereon, 48. Lords Address, occasioned by a Controversy with the Commons, relating to the Report of the Commissioners of Accounts, ibid. Protest on a Motion for printing the Occasional Conformity-Bill, ibid. Queen's Answer to the Lord's Address, 49. Affairs abroad, ibid. A Litt of the Houe of Peers, ibid. Second Session of the First Parliament of Queen Anne, 54. Lords Address, ibid Queen's Answer, 55. Proceedings on the Occasional Conformity-Bill, 56. Bishop of Salisbury's Speech, ibid. Lord Haversham's Speech, 64. The Bill rejected, 67. Abstract of the Occasional Conformity Bi, ibid. A List of Peers who voted for and against the Bill, 69. Scotch Plot, 71. The Lords examine into the faid Plot, and address the Queen, ibid. Controversy with the Commons thereon, ibid. Address to the Queen on the Deficiency of Seamen; and her Majesty's Answer, ibid. Votes against Admiral Graydon, 72. Bill for raifing Recruits; and Protest thereon, ibid. Votes on the Report of the Secret Committee, ibid. The Lords Committees thank'd, 73. Sir John Maclean's Narrative to the Earl of Nottingham; and Protest thereon, ibid. The Report of the Lord Committee appointed to draw up the State of the Case upon the Writ of Error, lately depending in the House of Peers, in which Matthew Ashby was Plaintiff, and William White and others Defendants: With the Resolution of the House of Peers relating thereunto, 74. Resolutions of the Lords on the State of the Cafe, 97. Second Representation to the Queen, 98. Her Majesty's most gracious Answer, 107. Precedents out of the Journals of the House of Lords, 108. Precedents out of the Journals of the House of Commons, 118. Alterations at Exploits of the Year 1704, 125. Court, 124. Third Seffion of the First Parliament of Q. Anne, 125.

Third Session of the First Parliament of Q. Anne, 125. Address to secure the northern Borders against the Scots, ibid. Bill to enable the Earl of Bath to make Leases, ibid. Protest thereon, 126. Bill for recruiting the Land-Forces; and Protest thereon, ibid. Lords Representation to the Queen against the Commons, ibid. Her Majesty's Answer, 144.

Promotions, 145. Affairs abroad, ibid.

The Second Parliament of Queen Anne.

Lords Address, 145. Her Majerty's Antwer, 147. Debate on the State of the Nation, ibid. Lord Haversbam's a Speech

Speech, 148. Division on the Question for inviting over the Princess Sophia; and Protest thereon, 151. Bill for the better Security of her Majesty, brought in, ibid. Another for naturalizing the Hanover-Line, ibid. A Third to appoint a Regency on the Queen's Decease, 152. A Fourth for a Union with Scotland, ibid. A Fifth Bill for the better Security of her Majesty's Person, ibid. A Rider, rejected; and Protest thereon, ibid. The Bill pass'd; and Protest thereon, 153. Vote on the Danger of the Church, 154. Lord Rochester's Speech, ibid. Lord Hallifax's Speech, 155. Bishop of London's Speech, 156. Bishop of Sarum's Speech, ibid Archaishop of York's Speech, 158. Lord Wharton's Speech, ibid Archbishop of York's Speech, ibid. Bishop of Ely's Speech, 159. Bishop of Litchfield and Coventry's Speech, ibid. Bishop of Bath and Well's Speech, ibid. Duke of Leed's Speech, 160. Lord Somers's Speech, ibid. Church voted in no Danger; and Protest thereon, ibid. Queen's Proclamation about the Church, 162. Summer's Exploits,

163.

Second Session of the Second Parliament of Q. Anne, 164. Lord Address, ibid Queen's Answer, 165. Honours beflowed, 166. Debate on a Motion, that the Proceedings on the Union may be laid before the Lords, 167. The Earl of Nottingham's Speech, ibid. The Sentiments of the Earl of Rochester, ibid. Duke of Buckingham's Speech, ibid. The Lord Treasurer Godolphin's Speech; and the Sentiments of the Lords Wharton, Somers and Hallifax, ibid. Earl of Nottingham's Motion dropp'd, ibid. An Act for the Security of the Church of England, 168. Amendments thereto rejected, and Protest thereon, ibid, A Debate on the Union, ibid. Earl of Rochester's Speech, ibid. The Sentiments of the Earls of Anglesea and Nottingham, 169. Lord Haversham's Speech, ibid. The fix first Articles of the Union approved by the Lords, 172. The Sentiments of the Lords North and Grey, and Hallifax, 173. The 9th, 10th, 11th, 12th and 13th Articles approved, ibid. The Sentiments of the Earls of Nottingham and Hallifax, ibid. The 15th, 16th, 17th, 18th and 19th Articles approved, 174. The Sentiments of the Earl of Thanet, Marquis of Lindsey, and Earl of Rochester, ibid Of the Earl of Nottingham, Lord North and Grey, Earl of Wharton, Lord Haversham, Bishop of Bath and Wells, and the Lords Somers and Hallifax, 175. And the Earl of Arran's, 176. The Treaty of Union approved of by the Lords; and Protest thereon, ibid. A Rider offered to the Bill of Union; and rejected, 178. Protest against the Ratification of the Union, ibid. Affairs Abroad, 179.

The

The First Parliament of Great Britain.

Debate on the Address of Thanks, 179. The Sentiments of the Earl of Wharton and Lord Somers, ibid. Earl of Stamford, Duke of Buckingham, Earl of Rochefter, Lord Guernsey and Earl of Wharton, 180. Lord Haversbam's Speech, ibid. Debate concerning the Earl of Peterborough and the Affairs of Spain, 183. The Sentiments of the Lord Hallifax, ibid. Lord Have fram, Earls of Peterborough, Rochester, Nottingham, and Duke of Marlborough, 184. The Lords vote against any Peace with Spain, unless that Kingdom be surrender'd to the House of Austria; and Queen's Answer, 185. Lords Address about Capt. Kerr, 186. Queen's Answer, 187. Bill for rendering the Union more compleat, passed; and Protest thereon, 188. A Committee of Lords examine Greg, ibid. Refolution of the House thereon presented to the Queen; and her Majetty's Answer, 189. Address of the Lords about the Milmanagement of the Navy, ibid. The Lord High-Admiral's Answer, 209. Second Report of the Lords Committees, 222. The Queen's Answer, 239. The Pretender arrives at Dunkirk, 240. Lords Address on that Occasion; and Queen's Answer, ibid. Manner of e'ecting the Sixteen Scotch Peers, &c. 241. Lift of the Privy-Council for the United Kingdom, 244. Exploits Abroad, 245.

The Second Parliament of Great Britain, or First fummoned by Writ.

I ords Address, 246. No Peace again voted without the whole Monarchy of Spain, ibid. Address of both Houses on the reducing Ghent, ibid. Debate on the State of the Nation, 247. Lord Haversham's Speech, ibid. A Committee appointed, 251. Lord Haversham opens the Account of the Scotch Invasion, 252. The Motion for the Demolition of Dunkirk presented to the Queen; and her Majesty's Answer, 261. Bill for a general Naturalization; and Protest thereon, ibid. Rider to the Bill for improving the Union resused, ibid. Protest thereon, 262. Protest on the passing the Bill, ibid. Abstract of the said Bill, 263. Affairs Abroad, 266.

h

f

F

e

d

e

10

Second Session of the Second Parliament, &c. 267. Lords Address, ibid. Articles exhibited against Dr. Sacheverell, ibid. Resolution that the Words supposed to be criminal are not necessary to be expressed in Impeachments; and Protess thereon, 269. Proceedings on the Articles, 272. Sentiments of Dr. Hooper, Dr. Talbot, Dr. Wake, Dr. Trimnel and Dr. Burnet, 273. Votes on the first Article; and Protess thereon, 274. Vote that the Commons have made good their Charge; and Protess thereon, ibid. Question to be

put in Westminster-Hall; and Protest thereon, 275. The Doctor voted guilty; and a List of the Lords on each Side of the Question, 276. Changes at Court, 278. Assaura Abroad, 279.

The Third Parliament of Great Britain.

Lords Address to the Queen, 280. Her Majesty's Answer. Motion about returning Thanks to the Duke of Marlborough, ibid. The Misfortune at Bribuegà communicated by Message; and Address thereon, ibid. Queen's Answer, 282. Remarkable Enquiry into the Conduct of the War with Spain, ibid. The Earl of Galway gives the Lords an Account of his Conduct, 283. Lord Tyrawley stands on the Reserve, The Sentiments of the Earls of Wharton and Godolphin, Lord Hallifax, and the Duke of Marlborough, ibid. Farther Debate about the Affairs of Spain; together with the Sentiments of the Duke of Devonshire, Earl of Godolphin, Duke of Buckingham, ibid. And Earl of Scarborough, 284. The Queen comes incog. into the House of Peers, ibid. The Earl of Galway's Narrative, ibid. The Five Questions put to the Earl of Peterborough, and his Lordship's Answer, 202. Earl of Abingdon's Questions to the Earl of Galway and Lord Tyrawley, and their Answers, 299, 300. The Sentiments of the Duke of Argyle, Earl of Peterborough, Lord Hailifax, Duke of Buckingham, Lord Hallifax, Earl of Abingdon and Duke of Argyle, 300. Duke of Marlborough, Lord North and Grey, Lord Cowper and Duke of Buckingham, 301. Duke of Marlborough, Earl of Rochester and Earl of Peterborough, 302. Question put to the Lord Tyrawley; and his The Sentiments of the Earl of Nottingham, Answer, ibid. Duke of Buckingham and Lord Hallifax, ibid. Earl of Peterborough, Duke of Marlborough, Earl of Godolphin and Earl Paulett, 303. Two other Questions put to the Lord Tyrawly, ibid. The Sentiments of the Earl of Peterborough, Earl of Paulett, Earl of Abingdon and Lord Cowper, ibid Several Papers read, ibid. Debate on the Earl of Peterborough's Account, 307. The Sentiments of the Duke of Argyle and Earl Paulett, ibid. Earl of Wharton and Lord Hallifax, 308. Second Debate on the Affairs of Spain, ibid. The Sentiments of the Earl Paulett, Duke of Bedford, Marquis of Dorchefter, Lord North and Grey and Duke of Buckingham, ibid. Duke of Devonshire, Earl of Rochester, Lord Somers, Duke of Argyle and Lord Cowper, 309. Earls of Nottingham, Wharton, and Duke of Buckingham, 310. Earl Paulett, Duke of Shrewsbury, Earl of Godolphin, Earl of Ferrers, Lord Hallifax, Earl Paulett, Earl of Marr, Duke of Argyle and Duke of Devonshire, 311. Duke of Buckingham, Lord Guernsey,

Earl of Scarborough, Earl Paulett, Duke of Leeds, Lord North and Grey, Lord-Keeper, Earl of Abingdon, Duke of Shrewfbury, Duke of Argyle, Earls of Ferrers and Peterborough, 312 Earls of Rochefter, Peterborough, Duke of Argyle, Earl of Godolphin and Lord Cowper, 313. Earls of Peterborough, Abington, Paulett, Duke of Argyle and Duke of Marlborough, 314. Lord North and Grey, Earl of Rochester, Lord Hallifax, Earl of Nottingham, Earl of Abingdon, Lord Cowper, Duke of Argyle, Earl of Scarfdale and Lord Hallifax, 315. Earl of Peterborough, Lord Hallifax, Earl of Rochester, Duke of Buckingham, Earl of Nottingham and Earl of Isla, 316. Division upon the Question, ibid. Third memorable Debate of the Lords, ibid. Earl of Sunderland's Letter to the Lord Galway, ibid. Earl of Scarsdale's Question; and Resolution thereon, 318. Earl of Scarsdale's second Question; and Debate thereon, ibid. The Sentiments of the Duke of Devon-Shire, ibid. Earls of Ferrers, Wharton, Abingdon, Paulett, Duke of Beaufort and Lord Cowper, 319. A fecond Letter of Lord Sunderland's, ibid. The Sentiments of the Lord Cowper, Earls of Rochester, Scarsdale and Paulett, 320. Earl of Godolphin, Duke of Leeds, Lord Cowper, Earls of Paulett and Isla, Lord Hallifax and Duke of Argyle, 321. Earl of Paulett, Duke of Buckingham, Lord Hallifax, Earls of Ferrers and Peterborough, Lord Hallifax, Earl of Rochefter, Duke of Argyle and Lord Cowper, 322. Earls of Peterborough and Godolphin, 323. Earls of Nottingham and Sunderland, and Duke of Marlborough, 324. Duke of Argyle and Lord Courper, 325. Earl of Paulett, Dukes of Devonshire and Shrewfoury, and Earl of Nottingham, 326. Earls of Rivers and Ferrers, Lords Mohun and Somers, 327. Earls of Rivers and Rochester, Bishop of Ely, Duke of Argyle, 328. The Question; and Division thereon, ibid. Duke of Argyle's Speech, ibid. And Motion that the Earl of Peterborough may have the Thanks of the House: Which was agreed to, 329. The Sentiments of the Earls of Wharton and Rochester, and Duke of Buckingham, ibid. Lord Keeper's Speech in giving the Thanks of the House to the Earl of Peterborough, ibid. His Lordship's Answer, 330. The Lords Proteit on the Vote in favour of the Earl of Peterborough's Answer, ibid. Resolution with regard to the Conduct of the Earl of Galway, Lord Tyrawley and General Stanbope, 331. Protest thereon, 332. Resolution of the Committee, ibid. Agreed by the House, 333. Protest on the first Resolution, ibid. The Earl of Galway's Reply, or Observations upon the Earl of Peterborough's Answers to the five Questions propoled to his Lordship by the Lords, ibid. A Letter from the Duke of Marlborough to the Earl of Peterborough. 342. Questien

.

S

e -- 1,

of

e

y,

rl

Question put to Lord Galway, Why he gave the Right to the Portuguese in Spain: Which is voted dishonourable to the British Nation, 343. The Lords enquire into the effective Men in Spain at the Time of the Battle of Almanza, ibid. Question with relation to two Regiments in the Spanish Service, and Protest thereon, 344. Question with relation to the Desiciencies in the said Service; and Protest thereon, ibid. Representation to the Queen, relating to the Affairs of Spain, 345. Death of the Emperor Joseph, 348. Mr. Harley made Earl of Oxford, and Lord-Treasurer, ibid. Lord Keeper's Speech to him, ibid. Operations of the Campaign, 349.

Congress appointed at Utrecht, ibid.

Second Session of the Third Parliament, &c. 350. The Queen stays in the House incog. ibid. Debate about a Clause, alter'd by the Earl of Nottingham, ibid. The Clause inserted in the Address, ibid. The faid Lords Address, ibid. The Queen's Answer, 351. Protest on the Address, ibid. Debate about the Duke of Hamilton's Case, as to his being created Duke of Brandon, 352. Bill of Occasional Conformity, brought in by the Earl of Nottingham, ibid. Petition of the Dutch and French Churches received, ibid. Abstract of the faid Bill, 353. Debate about the Duke of Hamilton's Patent, 357. Protest thereon, 358. Address relating to the Treaty; and the Queen's Answer, 359. Twelve Peers created, ibid. Promotions, 360. The Queen's Answer to the Lords Address about the Negotiation of Peace, 361. Message from the Queen, defiring the Lords to adjourn; with which the Lords comply, ibid. The Queen's Answer to the Representation of the Scotch Lords, ibid. The Queen's Meffage to both Houses for a farther Adjournment, 362. A fecond Message, ibid. The Lords Address, ibid. Her Majesty's Answer, 363. Duke of Devonsbire's Motion for settling the Precedency of the House of Hanover, ibid. The Affair about the Duke of Hamilton's Parent dropp'd, 364. Specific Explanation of the Offers of France, 365. Lord Hallifax's Motion in the House of Lords thereon, 367. The Lords Address on the same Occasion; and the Queen's Anfwer, 368. The Place-Bill rejected by the Lords, ibid. The Patronage-Bill brought up to the Lords, ibid. Representation in the Name of the Commission of the Church of Scotland against the Patronage-Bill, 369. Exceptions taken to the first Title of this Representation, 371. The Bill to restore Lay Patronages in Scotland, passes both Houses, ibid. The Grants-Bill read the first Time; and Debate thereon, ibid. The Sentiments of the Duke of Argyle, Earl of Wharton, and the Lords Cowper and Hallifax, ibid. The Bill dropp'd, ibid. Debate in the House of Lords about the Duke of Ormand's

Ormand's declining to fight, 371. The Substance of the Lords Protest against the Orders for not fighting, 372. Earl of Wharton's Motion for an Address of Thanks, 374. And likewise for reading the Letter of the States to the Queen. 375. Sentiments of the Duke of Marlborough, Earl of Strafford, Lord Couper, ibid. Advantages offer'd by France to Great Britain taken into Consideration, ibid. Sentiments of the Earl of Godolphin, ibid. Motion for an Address of Thanks; and Debate thereon, 376. Sentiments of the Earl of Nottingham and Lord Cowper, ibid. The Queen's Answer to the Lords Several Lords protest against rejecting the Address, ibid. The faid Protest ordered to be ex-Guarantee Clause, ibid. punged out of the Books, 380. Order of the Council for the discovering the Printer and Publisher of the faid Protest; ibid. The Duke of Marlborough's Case and Vindication of Mr. Secretary St. John made Viscount Bolinghimself, 381.

broke, 391. Affairs Abroad, ibid.

to

to

C.

id.

r-

to

id.

172,

de

r's

9.

he

ſe,

ed

he

e-

ng

or-

on

act

n's

to

ers

to

SI.

ith

the

ef-

A

1a-

et-

he

54.

ord

he

In-

he

ion

and

the

ore

bid.

ton,

o'd,

id's

Third Session of the Third Parliament of Great Britain, 392; Duke of Beaufort's Motion for an Address of Thanks; and Debate thereon, ibid. Motion for an additional Clause, rejected, 393. The faid Address, ibid. The Queen's Answer, ibid. The Scotch Members of both Houses hold several private Meetings, ibid. Their Deputation to the Queen; and her Majesty's Answer, 394. Earl of Seafield's Motion for a Day to confider the State of the Nation: Which gives rife to a Debate about the Union, which is opened by the faid Earl; seconded by the Earl of Marr, and opposed by the Lord North and Grey, ibid. The Sentiments of the Lords Eglingtoun, and North and Grey, the Earls of Isla and Peterborough; Duke of Argyle, Lord Chief-Justice Trevor, and the Lord Treasurer Oxford, 396. Earls of Nottingham, Sunderland, Lord Viscount Townshend, Lord Hallifax, Earls of Marr, Loudoun, Paulett, Scarborough, and Scarsdale, 397. Viscount Townshend, Duke of Argyle, and Earl of Scarsdale. The Question carried in the Negative, ibid. Malt-Bill committed by the Lords, ibid. Protest thereon. The Earls of Wharton's Motion for removing the Pretender from Lorrain, ibid. The Sentiments of Lord North and Grey, Earls of Peterborough and Wharton, and Lord Treasurer, 400. Lords Address thereon, ibid. Queen's Answer, reported by the Lord Chancellor, 401. The Earl of Sunderland's Motion for a second Address against the Pretender; which is ordered by the Lords to be presented to the Queen, ibid. Parliament dissolved, 402. Remarkables between the Sessions, ibid.

The

CONTETNS.

The Fourth Parliament of Great Britain.

The Lords Address of Thanks, 402. The Queen's Answer, 403. Complaint in the House of Lords against a Libel, called, The Public Spirit of the Whigs, 404. The Paffages complained of, ibid. The Publisher ordered into Custody, and Mr. John Barber, 406. Address of the Lords to the Queen thereon, 407. The Queen's Answer, 408. Proclamation to discover the Author, ibid. Debate on the State of the Nation, ibid. The Sentiments of the Earls of Wharton, Nottingham and Sunderland, Lords Cowper and Hallifax, ibid. The Lord Treasurer moves for a Bill against Foreign Troops being brought into the Kingdom, ibid. The Sentiments of the Earl of Nottingham, ibid. Lord Bolinghroke, Lord Treasurer, and Earl of Anglesea, 409. The Motion dropp'd, ibid. Debate on the State of the Nation resumed, ibid. The Sentiments of the Earl of Anglesea, ibid. Lord Treasurer, Lord Trever, and Earl of Wharton, 410. The House adjourned, ibid. Debate about the Catalans, 411. The Sentiments of the Earls of Wharton and Sunderland, Lord Hallifax, Cowper, Bolingbroke and Lord Chancellor, ibid. Address to the Queen thereon, ibid. Her Majesty's Answer, 412. Farther Debate on the State of the Nation, ibid. Lord Hallifax's Motion for removing the Pretender from Lorrain, The Earl of Wharton moves for fetting a Price on his Head, which is seconded by the Duke of Bolton, ibid. An Address voted in order thereto, ibid. The Address reported, 414. The Lord North and Grey's Speech against it, ibid. Lord Trevor's Speech, ibid. The Address mitigated, ibid. Lord Hallifax moves for an Address against Romish Priests. and Persons out-lawed, ibid. Votes against Persons out-lawed, Ec. 415. Remittances to the Scottist Clan considered, ibid. The Sentiments of the Lord Viscount Townshend, Duke of Argyle, Lord Treasurer, Lord Viscount Bolingbroke, and Lord North and Grey, ibid. The Lord Treasurer's Conduct ap. proved, 416. The Lords Address against the Pretender, ibid. Her Majefty's Answer, 417. Baron Schutz visits the Lord Chancellor, and demands a Writ for the Duke of Cam-bridge, ibid. Which the Queen in Council resolved to grant, 418. Baron Schutz forbid the Court, ibid. Debate on the Queen's Answer to the Address for removing the Pretender, 419. Orders thereon presented to the Queen, ibid. Her Majetty's Answer, 420. Officers (or Place) Bill committed, ibid. Debate in the House of Lords about the Treaties of Peace and Commerce, ibid. The Sentiments of the Lords North and Grey, Clarendon and Couper, ibid. Lord Hallifax, Earl of Nettingham, Bishop of Salistury (Burnet,) Bishop of London (Robinson)

(Robinson) and Earl of Wharton, 421. Address of Thanks for the said Treaties voted, 422. Debate on the Schism-Bill, ibid. The Sentiments of the Lords Bolingbroke and Cowper, ibid. Earl of Wharton's Speech, 423. The Senments of the Earls of Abingdon, Anglesea, Hallifax, and Lord Townshend, 424. Lord Viscount Townshend, Lord North and Grey, and Earl of Nottingham, 425. Lord Treasurer, 426. Petition of the Diffenters, to be heard by their Council rejected, ibid. The Bill read a fecond Time and committed, A Clause in favour of the Dutch and French Churches order'd, ibid. The Lords in a Committee of the whole House make several Amendments to the Bill, ibid. Sentiments of the Bishop of London and Lord Hallifax, ibid. The Lords Couper and Hallifax, Earl of Sunderland, Lord Bolingbroke, Earls of Anglesea and Abingdon, Duke of Buckingham and Lord Chancellor, 427. The Debate renewed, ibid. Tutors in the Families of Peers exempted, ibid. Earl of Anglesea's Motion for a Clause to extend the Bill to Ireland, ibid. Carried in the Affirmative, 428. Reported by the Archbishop of York, ibid. Opposed by the Duke of Shrewsbury, ibid. The Bill passed, ibid. Protest thereon, ibid. Earl of Nottingham's Motion for an Address of Thanks for the Queen's Proclamation for removing the Pretender, 430. The Sentiments of the Lord Hallifax and Earl of Wharton, ibid. Their Lordships Address to the Queen thereon, 431. The Queen's Anfwer, 432. Address of Thanks voted, ibid. Lord Viscount Bolingbroke moves for a Bill to make it High Treason for any one to enlift in the Pretender's Service, ibid. The faid Bill order'd in, ibid. The Sentiments of the Lords Hallifax, Townshend, Cowper, Somers, and Earl of Wharton, ibid Debate about the Spanish Trade, 433. The Sentiments of the Earl of Nottingham, the Lords Cowper, Bolingbroke and Hallifax, ibid. An Address voted for all Papers relating to the Treaty of Commerce with Spain, &c. The Queen's Anfwer unsatisfactory, ibid. Which gave rise to a Representation, ibid. The Queen's Answer, 435. Consideration of the Treaty of Commerce resumed, ibid. The Commissioners for Trade and Plantations examined, ibid. Proceedings in relation to the Affiento, 436. The Sentiments of the Lord Cowper, Earls of Wharton and Anglesea, ibid. The Lords Address to the Queen about the Assento, and her Majesty's Answer, 437. Warm Speeches about it, ibid. Parliament prorogued, 438.

1

e

(Robin on Fact of M'A and A for a feet of M'A and A for the feet of M'A and A feet of M'A and A feet of M'A and A feet of M'A Pointer at the interesting office or the street of principle of the point of the following of the second of the se 1675 of the marine lets Delegan war and the Hair government to the state of The are the state of the North and the state of And the state of t in a second of the second of t THE REPORT OF THE PROPERTY OF and the second s



THE

HISTORY and PROCEEDINGS

OFTHE

House of Lords,

WITHTHE

DEBATES and PROTESTS therein,

ON the 14th of November, 1697, the King made a fort of triumphal Entry into London, and on December the 3d opened

The THIRD SESSION of his Third Parliament

ITH a Speech to both Houses, to be found in CHANDLER's History, Anno 9 Will. 111. 1697, P. 74, to which the Lords return'd an Address, Lords Address, congratulating his happy Return, accompanied with the

Bleffings of a fafe and honourable Peace; which, next under God, they were fenfible was owing to his Courage and Con-

duct; they told him, that, after the Hazards and Labours he

had so long sustained for the Good of Europe, there wanted nothing but this to compleat the Glory of his Reign; and

' affur'd his Majesty, that they should never be wanting in their ' Endeavours to assist his Majesty in maintaining that Quiet

which he had so graciously restored to these his Kingdoms,

and in contributing all they could to the Safety of his Person, and the securing the Peace and Prosperity of his Govern-

" ment.' His Majesty, in Return, " affured their Lordships King's Answer, of his Kindness, and told them, he hoped this Peace would

" be so bles'd, that they might long enjoy it."

The Stream of the public Business, during this Session, appears to have run principally thro' the House of Commons, insomuch that, till the Case of the Earl of Macclessield came to be argued, we met with nothing of Moment in that of the Peers, 1697

Anno 9 Will. III. 1697.

Earl of Macelesfield's Cafe.

And Plea.

It appears that, during the Refidence of the faid Earl abroad, his Lady retir'd from his Father, where she had been left, to her own Mother's Lady Masons; which so far irritated her Lord, that when he return'd, he did not think proper to invite her back : She thinking herfelf, therefore, at Liberty, admitted the Addresses of another Earl (Rivers.) the Confequence of which were two Children, a Daughter and Son. Of this her Husband being apprized, his Lordship apply'd himself to his Peers for a Remedy, which nothing but a Parliament could give; all the Relief which he could expect from a Sentence in Doctors Commons being no more than that State of Separation, in which he and his Lady had long liv'd. He allede'd, that it is evident, that the Divine Law admits of fecond Marriages in fuch Cafes; and that there had been Acts of Parliament for them, as well as for ballardizing spurious Issue: That those Canons which have prohibited fecond Marriages in like Case, were so manifeltly an Effect of the Popish Doctrine of Marriage being a Sacrament, and of the Avarice of the Court of Rome, to get Money for dispensing with them, that in the Reformation of Ecclefiastical Laws, prepared and intended in the Time of Edward VI. in purfuance of an Act of Parliament of Henry VIII. there was express Liberty given, by those Canons, to marry again; which, by virtue of that Act of Parliament, would have become a general Law, or at least have occasioned one: That whatever Objection might be against such a general Law, from the Temptation it might give ill People to feek ground. less Dissolutions of Marriages; yet, upon extraordinary Cases, fuch as this was, such Relief had been granted; and where it had been denied, either the Fact was not fully proved, or the Parties had cohabited, or, after the Grounds of Diffatiffaction had been reconciled: That if in such a Concurrence of Circumstances, as were in his Case, he must still be thought to have a Wife, and the Children she had must be looked upon as his, from the common Presumption, till contrary Proof, in that they were born within the four Seas; befides, that it could not but be too great an Encouragement to Women, to make an ill Use of a separate Maintainance, which is provided for in most Marriage-Settlements; it would be a most unreasonable Hardship upon him, that the standing Law, which is defigned to do every Man Right, should, by the Rigour of the Letter, be to him the Cause of the greatest Wrong; and that for his Wife's Fault he should be deprived of the common Privilege of every Freeman in the World, to have an Heir of his own Body, to inherit what he possest, either of Honour or Estate; or that his only Brother should lose his Claim to both, and have his Birthright facrificed to the Lady Macclesfield's irregular Life. While

While this Affair was depending in the Spiritual Court, the Anno so Will. Lady Macclesfield infifted upon her Innocence, and her Agents industriously spread a Report, that the Earl, her Husband, had Lady Macclesbeen surprized into a private Meeting with her, (by a Wo. man of Intrigue) at which time he got her with Child; but field's Reply. this Story being confuted by the Earl's positive Evidence to the contrary, her Ladyship gave up that Point now, and only endeavoured to make her Husband the Author of her Miscar-She alledged, that the late Earl of Macclesfield had turn'd her out of Doors; that the present Earl, notwithstanding the Obligation she had laid upon him, by petitioning King James for his Life, had maliciously secluded her from Bed and Board: And therefore, if the Lords thought fit to pass this Bill of Divorce, she demanded her Fortune to be refunded; both because a Divorce dissolves the whole Frame of the Marriage-Contract, and because it were the highest Pitch of Injustice, that a Man who was guilty of making his Wife commit Adultery, should be rewarded out of the fame Wife's Fortune. This Affair occasioned great Debates in the Upper House; some Peers representing the Danger of granting Divorces, and others, amongst whom Dr. Burnet, Bishop of Salis-Bishop of Salisbury, spoke the loudest, shewing the Necessity bury. and Lawfu ness of such extraordinary Proceedings, in some particular Cafe. Upon the whole Matter, the Lords passed a Bill for dissolving the Marriages between Charles Earl of Bill to dissolve the Marriage Macclesfield, and Anne his Wife, and to illegitimate her Children; but with a Proviso, that the Earl should refund her Fortune.

Which gave Rife to the following Protest.

Dissentient'

en

ed

to

ie-

b'

ect

nat

d.

en

fe-

of

of

ng

VS,

Ir-

n;

oe-

nat

w,

es,

ere

or if-

ce

ht

ed

TY

es,

10.

ch

ea

w,

li-

gi

he

ve

ofe

he

Because, we conceive, this is the first Bill of this Nature Protest thereone that hath passed, where there was not a Divorce first obtained in the Spiritual Court, which we look upon as an ill Precedent, and may be of dangerous Consequence for the future.

Hallifax, Rochester.

June the 10th, The Lords presented an Address desiring his Majesty to discourage the Woolen Manusacture of Ireland,

and promote the Linnen.

June the 15th, A Conference was had with the Commons on the Subject-matter of the Lords Message of the eighth Instant, declaring they will proceed to the Trial of Gaudet and o* Gaudet and others at the Bar of the House; and Report the Bar.
being made of what was offered by the Commons,

The

See CHANDLER'S History, Anno 10 Will. III. 1698, Page 88.

Anno to Will. The Question was put, Whether this House shall infift III, 1698. upon their Declaration above-mentioned?

Diffentient'

Protest thereon.

nf, Because the Managers of the House of Commons may have Occasion, in Trials upon Impeachment, to have recourse to Papers, Books, and Records, which they can-

not so conveniently make use of in a Croud.

2dly, It feems as reasonable, that some Provision should be made for their Convenience, and to protect them from the Croud at the Bar of this House, as in Westminster-Hall, the Judicature of this House receiving no Alteration by the Place to which they adjourn; nor could the Lords think so, when even upon the Desire of the Commons themselves in the Earl of Strafford's Case, being offered all imaginable Convenience at the Bar of this House, and finding themseves streightened thereby, the Lords appointed the Trial to be in Westminster-Hall, on that Consideration, as we conceive.

3dly, The noblest Part of their Lordship's Judicature may not only hereby be lost, but what has been hitherto thought one of the greatest Securities against Attempts upon the Constitution, by such a Discouragement of the Commons from bringing up Impeachments to the Bar of this House, will be very much weakened.

Devonshire, Stamford, * Haversham.

Bill for fettling the East-India Trade to be read a fecond time. July the 1st, After hearing Council for and against the Bill, entitled, An Act for raising a Sum, not exceeding two Millions, upon a Fund for payment of Annuities after the Rate of Eight per Cent, per Annum, and for settling the Trade to the East Indies.

And after Debate thereupon, the Question was put, Whe-

ther this Bill shall be read a second time?

It was resolved in the Affirmative. Contents 47, Proxies 18; in all 65. Not Contents 28, Proxies 20; in all 48.

Diffentient'

Protoft thereon.

1st. Because this Bill puts an unreasonable Hardship upon the present East India Company, since it plainly appeared at the Bar of this House, that a Security, of which (we conceive) there was no Reason to doubt, had been offered by the said Company for raising the whole two Millions for the public Service, whereas the Bill investing the new Subscribers with the Trade upon the Subscription of one Million only, does not, as we conceive, give so much as a Probability of raising more; and it may be reasonably enough doubted, whether the separate Trade allowed in this Bill,

Sir John Thompson, Bart. created Baron Haversham, May 4, 1696.

concurrent with a Joint-stock, may not prove so inconfissent Anno to Will, as to discourage the Subscription from ever coming near to III. i 98.

the faid Million.

GÆ

ons

ve

in-

uld

om

all,

the

fo,

in

ble

mto

on-

ay

ght

on-

om

be

the

WO

the

the

he-

ox-

18.

nip

p-

ich

of-

ne

s a

gh

ill, on-96.

adly, Because the Bill puts a Period to the Charter of the East-India Company, and gives the Trade thither to other Persons, without so much as suggesting that the said Charter, or the Trade carried on by virtue of it, hath been prejudicial to the King or Kingdom, tho' the faid Company have an express Clause in their Charter, that it shall not be determined without three Years Warning, even if it should appear not profitable to the King or this Realm; and the Bill granting likewise a Supply of two Millions, in which the Commons pretended the House of Lords ought not to make any Alteration; we are of Opinion their Lordships are thereby likewise deprived of the Freedom of their Vote in the Matter of the East India Trade, to which it cannot be denied but they have an equal Right with the Commons, and yet by its being joined to a Bill of Supply, this House must either be the Occasion of disappointing so large and necesfary a Grant for the Public Service, or be put upon the unreasonable Hardship of consenting to a Matter, which, tho' it feems so unjust, it is fruitless for them to examine, if their Amendments are not to be admitted, because offered to a Money-Bill, which we humbly conceive to be a manifest Violation of the House, and tending to an Alteration of the Constitution of the Government.

Hallifax, H. London, Willoughby, Jeffreys, Berkeley of Berkeley, P. Winchester, Torrington, Rochester, Tho. Roffen', Howard, Denbigh, E. Gloucester, Scarsdale, Godolphin, Audley, Granwille, Peterborough, Dartmouth, Berkeley, Anglesey, Guilford.

July the 5th, The King prorogued the Parliament with a

* Speech, which was foon after diffolved.

July the 20th, The King embark'd as usual for Holland, where he negotiated and concluded the famous Treaty of Partition, which was the most remarkable Transaction, relating to England, of this Summer.

December the 3d, His Majesty landed at Margate, three

Days after which

The Fourth Parliament of King WILLIAM

ET at Westminster, pursuant to a Proclamation for that Purpose: And the Commons having, by Direction, chose their Speaker, the King open'd the Session

Parliament dissolved.

^{*} CHANDLER'S Hift. Anno 10 Will. III 1698. p. 90.

Anno II Will. Selfion with a Speech, which is to be found in CHANDLER's

History, Anno 10 Will. III. 1698. Page 91. III. 1698.

January the 3d, The Lords being highly fensible of his Majesty's great Care and Goodness towards his People, expres'd upon so many Occasions, and particularly in his Speech to both Houses, at the opening of this Parliament, begg'd Leave, by way of Address, ' humbly to affure his Mae jelty, that as they should always retain a lively Impression

Lords Address.

of thole great and continued Obligations, which his Majesty had laid upon this Nation to all Posterity; so it should be, upon every Occasion, the perpetual Care and Study of that House, with the most zealous Duty, and the most grateful

Affections imaginable, to make his Majesty all suitable Returns within their Power. And at this time particularly they

further affured his Majesty, that they should not fail to use their most diligent Endeavours, for the attaining of those

great and good Ends, which his Majesty had been pleased to

recommend to his Parliament'

To which the King reply'd,

King's Answer.

HAT he took their Address very kindly, and gave them his hearty Thanks; and that they might al-" ways depend upon his Kindness, as he did on this Affu-" rance of theirs to him, and their Zeal for the Public " Good."

Another Address on disbanding the Army.

And upon his Majesty's passing the Act for the disbanding the Army, the Lords presented their most hearty Thanks to his Majesty for it, and for the gracious Expressions in his Speech, 'That it was his Majesty's fix'd Opinion that nothing could be fo fatal to them, as that any Distrust or

· Jealoufy should arise between his Majesty and his People; as likewise for his great Care and Concern for the Safety

of the Kingdom upon all Occasion, assuring his Majesty,

that at all Times, for the Safety of the Kingdom, and the · Preservation of the Peace, which God had given them,

· they would affift and defend his Majesty against all his

· Enemies both at Home and Abroad.'

The Earl of Warwick and Lord Mohon. tried for a Murder;

March the 28th, Edward Earl of Warwick, and Charles Lord Mohun, being severally indicted for the + Murder of Richard Coote, Elq; were tryed by the House of Peers, in a Court prepared for that purpose in Westminster-Hall, the Lord Chancellor of England, being constituted Lord High Steward upon this Occasion. The Court being opened, with the usual Ceremonies, the Trial of the Earl of Warwick came

* February the 1st. At which Time he made a Speech : See CHAND-LER's Hiftory, Anno 11 Will. III. 1698, Page 93 † In a drunken Fray in Lincoln's-Inn-Fields t Three against Three.

came on first, and lasted till late in the Evening, when the Anno 11 Will. Peers adjourn'd to their own House, and after some Debate, the Lords temporal only returned to the Court in Westminser-Hall, where they delivered their Judgments seriatim upon their Honours, and unanimously acquitted the Earl of Warwick of the Murder, but sound him guilty of Manslaughter; who craving the Benefit of his Peerage, according to the Statute in that Case provided, was thereupon discharged and acquitted. The next Day came on, in like manner, the Trial of the Lord Mohon, who with great Composedness and Ingenuity, having made his Innocence appear, was acquitted of the said Murder, by the unanimous Suffrages of the Peers there present

April the 27th, Hodie 3ª wice letta eft Billa, entitled, An Bill for grants Act for granting to his Majesty the Sum of one Million ing an Aid to eighty-four Thousand and fifteen Pounds, one Shilling and his Majesty for eleven Pence three Farthings for disbanding the Army, prodisbanding the viding for the Navy, and for other necessary Occasions.

The Question was put, Whether this Bill shall pass?

It was refolved in the Affirmative.

Diffentient'

is

K-

is

t,

2-

y

e.

at

ul e-

y

(e

to

70

1-

1-

ic

d.

22

is

0-

or

;

ty

у,

30

n,

13

les

of

a

ne

h

th

ck

10

D-

Because of the Clause at the latter end of the Bill, which Protest thereone constitutes Commissioners for enquiring into, and taking an Account of all such Estates real and personal, within the Kingdom of Ireland, as have been forseited for High-Treafon by any Persons whatsoever during the late Rebellion within that Kingdom; which, we conceive, was a Matter foreign to this Bill, and more proper for a Bill by itself and that the tacking of a Clause of that Nature is contrary to the antient Method of Proceedings in Parliament, and on that account, as we apprehend, may be of ill Consequence to the Freedom of Debate in either House, and highly prejudicial to the Privileges of the Peers and the Prerogative of the Crown.

Anglesey, Jo. Oxon', Suffolk, Raby, Haversham, Warrington, Rochester, Cholmondeley, Jeffreys.

May the 4th, The King put an End to the Session with a Speech, which see in CHANDLER'S Hist. Anno 11 Will. III.

1699, Page 105.

June the 1st, The King set out for Holland, and seems to have had nothing so much at heart, as securing to himself the Principality of Neuschatel, as Heir to the House of Longueville, claimed also by the Prince of Canti, and the Duchess of Neumoirs, who were both prevailed upon by the most Christian King, if not to drop their Pretensions, to stop Proceedings.

Parliament prorogued,

October

October the 18th, His Majesty returned again to England, Anno 12 Will. III. 1698. and November the 16th

The SECOND SESSION of his Fourth Parliament

AS opened, with a Speech from the Throne, which fee in CHAND. Hift. Anno 12 W. III. 1699 P. 106. January the 23d, After hearing Council at the Bar to gainst the King, argue the Errors assigned upon the Writ of Errors depending in this House, wherein Robert Williamson is Plaintiff, and his Majesty, by his Attorney General, Defendant, and Debate thereupon, this Question was put, Whether the Judgment of Reversal shall be reversed?

It was refolved in the Affirmative.

Protest thereon.

Williamson a-

Judgment re-

verfed.

Leave being asked and given for any Lord to dissent, these Lords, whose Names are hereunto subscribed, do disfent, for the Reasons following:

For that, we conceive, it did not appear, that ever any fuch Judgment was given by the Exchequer before the annexing the Court of Augmentations to the Exchequer.

For that, fince the diffolving and annexing of the faid Court of Augmentations, there hath no fuch Judgment been given, unless in such Cases which were in the Cognizance of the Court of Augmentations before it was dissolved.

That the Judgments in the Case of Sir Henry Neville and Sir Thomas Wroth, and others of the like nature cited. feems to be by virtue of the Powers of the Court of Augmentations being annexed to the Court of Exchequer.

That those Courts were duly annexed, appears by the Preamble of the Statute 1 Eliz. Cap. 4. by the Lord Chief Justice Bromley's Case, and by the Case of the Earl of Dewonshire in Coke's Reports, and for that the Court of Firstfruits and Tenths was dissolved and annexed in like manner to the Exchequer, as the Court of Augmentations was; which Powers, by that Annexation, subsist in that Court to this Day.

* Lonsdale, C. P. S. Sarum, Rivers, Haversham, Stamford, Bergavenny, J. Culpeper, W. Wigorn', Rich. Peterburg', Audley.

Settlement of the Scotch Colony at Darien debated.

February the 8th, After reading the Order of the 29th of January last, for resuming the adjourned Debate concerning the Settlement of the Scotch Colony at Darien, and long Debate thereupon, this Question was proposed, That

^{*} Sir John Lowther, made Baron Lowther, and Viscount Lonsdale, May the 28th, 1696.

the Settlement of the Scotch Colony at Darien is inconfistent Anno 11 Will. with the Good of the Plantation-Trade of this Kingdom. III. 1698.

Then the previous Question was put, Whether this Ques-

tion shall be now put?

It was resolved in the Affirmative: Contents 32; Not content 26.

Diffentient'

l,

h

to

d-

ıd

ne

1-

y

n-

uid

en

of

lle

ed,

ıg-

he

ief

De-

rft-

ner

ich

his

rd,

rg',

9th

on-

and

hat

the

ales

Because, as we conceive, there has not been made appear, Protest thereone in this Debate, any Ground sufficient to determine a Point of so great Importance, and yet it has been resused to allow Time for due Information in a Matter of Trade, which is very obscure, and of the highest Consequence to the Quiet and Welfare of both Nations in this Conjuncture.

Normanby, H. London, Nottingham, Weymouth.

The 12th, The Lords represented in an Address to his Lords Address. Majesty, ' That according to their Duty, being sollicitous against the said for the Preservation and Increase of the Trade of the Colony. Kingdom, on which the Support of his Majesty's Greatness and Honour so much depended, as well as the Security and Defence of his People, had been very apprehentive, that the Step made towards the Settlement of the Scots at Darien, might tend to the great Prejudice of England, and possibly to the Disturbance of that Peace and good Correspondence with the Crown of Spain, which they conceived That therefore they had taken to be very advantageous. the fame into ferious Confideration, and thought it proper to be laid before his Majesty, as the common Father of both Countries. And that as they were truly fenfible of the great Losses their Neighbour-Kingdom had sustained, both by Men and Treasure, in their Expeditions to that Place, which they very heartily lamented; fo they should not endeavour, by any Interposition of theirs, to defeat the Hopes the Scots might still entertain of recovering these Losses by their further engaging in that Defign, but that they judged fuch a Profecution on their Parts, must end not only in far greater Disappointments to themselves, but, at the same time, prove inconvenient to the Trade and Quiet of the Kingdom of England. That they prefumed to put his Majesty in mind of the Address of both Houses of Parliament, presented to his Majesty on the 17th of December, 1695, in the close of which Address his Majesty would see the unanimous Sense of the Kingdom, in relation to any Settlement the Scots might make in the West-Indies, by virtue of an Act of Parliament past about that Time in the Kingdom of Scotland, which was the Occasion of the Ad-That they also humbly represented to his Majesty, 1698 · that

111. 1698.

Anno 11 Will. ' that having received Information of some Orders his Ma. · jesty had fent to the Governors of the Plantations on that · Subject, the House had, on the 18th of January then last patt, come to this Resolution, that his Majesty's Pleasure . fignified to the Governors of the Plantations, in relation to the Scots Settlement at Darien was agreeable to the fore. mentioned Address of both Houses of Parliament; and . that on the 8th of that Instant February, that House came to a farther Resolution, that the Settlement of the Scott · Colony at Darien was inconfistent with the Good of the Plantation-Trade of the Kingdom. All which they hoped his Majesty would take into his Royal Consideration.'

This Address was carried only by four or five Votes, and

The King's Answer.

about fixteen Peers entered their Protetts against it. As for the Commons, they absolutely refused to concur with it; but however, his Majesty made Answer; " That having " received a very dutiful Address from the House of Peers, " he was pleated to let them know, that he would always " have a very great Regard to their Opinion, and that he " affured them, that he would never be wanting, by all " means, to promote the Advantage and Good of the Trade of England." At the same time his Majesty was pleased to declare, " That he could not but have a great Concern and " Tenderness for his Kingdom of Scotland, and a Defire to " advance their Welfare and Prosperity; and was very fen-" fibly touched with the Loss his Subjects of that Kingdom " had futtained by their unhappy Expedition, in order to a " Settlement at Darien; that his Majesty did apprehend, et that Difficulties might too often arise, with respect to the " different Interest of Trade, between his two Kingdoms, " unless some means were found out to unite them more " nearly and completely; wherefore he took this Oppor-" tunity of putting the House of Peers in mind of what he recommended to his Parliament, soon after his Accession " to the Throne, that they would confider of an Union " between the two Kingdoms." That his Majesty was of Opinion, " That nothing would contribute more to the Se-" curity and Happiness of both Kingdoms; and was in-" clined to hope, that after they had lived near 100 Years " under the same Head, some happy Expedient might be " found for making them one People, in case a Treaty wert " fet on foot for that purpole; and therefore he very ear-" nestly recommended that Matter to the Consideration of " the House."

Steps towards Hereupon the Lords framed and passed an Act for authoan Union. rizing certain Commissioners of the Realm of England, to

treat

treat with Commissioners of Scotland, for the Weal of both Anno 11 Will.
Kingdoms, to which the Commons refused to give their III. 1698.
Concurrence.

March the 8th, after long Debate upon the Evidence for and Bill to diffolve against the Bill to diffolve the Duke of Norfolk's Marriage the Duke of with the Lady Mary Mordaunt, and to enable him to marry Norfolk's Margain, and the Subject-matter of the Bill,

The Question was put, Whether the said Bill shall be read

a fecond time?

It was resolved in the Affirmative. Contens 47; Not Pass'd. contents 30.

Diffentient'

1 ft. Because, we conceive, there was a Contradiction in the Protest thereon.

Evidence given at the Bar, which made the Validity of it suf-

pected.

VI2.

hat

laft

fure

n to

ore.

and

ame

Scots

the

ped

and

for

it;

ving

eers,

ways

it he

all

rade

ed to

and

re to

fen-

dom

to a

end,

oms,

more

por-

at he

fion.

nion

as of

e Se-

in-

Years

it be

wert

ear.

on of

utho

d. 10

treat

2dly, And because it is without Precedent, that a Bill of this Nature was ever brought into Parliament, where the Subject-matter had not been first proceeded on in the Ecclesiatical Courts; and that it may be of dangerous Consequence to the Settlements of Families to subject the Dissolution of Marriages to so short and summary a way of Proceeding.

Burlington, Rochester, N. Cestriens', Lempster, Jonat. Exon', H. London, Mantagu, Weymouth, Vaughan, Ja. Lincoln, Hallifax, Sussex, Jessreys, Bolton, Tho. Rossen', Sy. Eliensis, Scarsdale, Thanet, North and Grey.

The Cause had been tried in the King's Bench November the 24th, 1693, and upon a full hearing, the King sound for the Plaintiff, and allowed his Grace one hundred Marks Damages, with Costs of Suit; and a State of his Case was as sollows.

If want either of Precedent or parliamentary Divorce, be His Grace's fore going through the tedious and ineffectual Methods of Case. Doctors Commons, or of Demonstration of Fact, have hither-to depriv'd the Duke of Norfolk of that Relief against his Wise's Adultery, which the Divine Law allows; The late Statute made in the like * Case, and the coming in of two Witnesses, who, while the Duke's former Bill was depending, had been sent away to prevent that Discovery which they now make, cannot but be thought to remove all Objections against an Act of Parliament, not only for the Benefit of the Duke, but of the Public, as a means to preserve the Inheritance of so great an Office, and Honours to Persons of the true Religion.

And, fince Bishop Cozens's Argument in the Lord Ross's Case has made it evident, that those Canons, which govern the spiritual Court in this Matter, are but the Remains of

C2

That of Lord Maccesfield.

inno 22 Will. Popery, nothing can be now requite to fatisfy the most III. 1698. scrupulous of the reformed Religion, but to see the Duke's

Proofs of his Lady's Adultery in a true Light.

The Reputation which the Dutches had maintained, of Wit and Discretion, made it difficult for many to believe, that she could be surprized in the very Act of Adultery, as had been formerly proved. And the then it appeared, that one Henry Keemer lived with the Dutchess, while she went by a feigned Name, at a House hired for her at Vaux Hall, by Sir John Germain's Brother; and that Nicola, who then lived with Sir John, used to receive Wood sent from the Dutchess to Sir John's House by the Cockpit; the withdrawing of Nicola and carrying with him the Dutch Maid, equally entrusted with the Secret on Sir John's Side, left no Evidence of their constant Conversation, but Keemer, since dead, and Susannah Barrington, who had the like Trust from the Dutchess.

Keemer, tho' very unwillingly, some Years since, confess'd his living with the Dutchess at Vaux-Hall, where, he pretended, she was obliged to conceal herself for Debt; and what Share Susannab had kept secret was unknown, till Nicola appear'd: Nicola coming into England, and being destitute of a Service, express'd his Readiness to discover what he knew, and to bring with him the Dutch Maid.

She proves, That for two Months, the first Summer after the King came for England, Sir John Germain and the Dutchess lived together as Man and Wife, and were seen in Bed by her, Mr. Bryan, and his Wife, Sir John's Sister: And that Nicholas Hauseur, Sir John's Valet de Chambre, used to be affishing to him, as the Dutchess's Woman, Susannah Bar-

rington, was to her, at going to Bed and rifing.

She proves the like Conversation at Vaux-Hall, and the Dutchess's House at the Mill-Bank, till the Duke's first Bill of Divorce was depending; within which time Nicholas Hauseur, by Sir John's Order, carried her away, and Susannah Barrington, with intention of going for Holland, to prevent their being examined to what they knew; but the Wind proving contrary, they could not go till the Bill was rejected; and then Sir John setch'd back Susannah, who was most useful to the Dutchess; but Hauseur went for Holland with Ellen.

He confirms Ellen's Evidence in every Particular; and, besides the Persons mention'd by Ellen as privy to Sir John's Intrigue, names Sir John's Brother Daniel. Nicholas having been found very truty, his Master sent for him to return to his Service, and gave him the Opportunity of proving the Continuance of the same Conversation at several Times and

Places,

Places, from the Summer, 1692, to the 26th of April, 1696, Anno it Wills He swears he had, after his Return to Sir John's Service, feen them in Bed together in Sir John's House at the Cockpit, and at the Dutchess at Millbank, where she now lives, and used to be let into the Dutches's Appartment by Susannab Barrington, or Keemer. Nor can any Man who shall read the ample Testimonials given Mr Hauseur by Sir John; by the last of which it appears that he serv'd him faithfully as

his Steward, reasonably question Hauseur's Credit.

.

of

e,

28

nat

ent

11.

en

the

W.

al-

vi-

ad,

the

(s'd

re-

and

till

ing

ver

the

hess

by that

be

Bar-

the

Bill

lau-

mab

vent

ind

re-

was

land

and, bn's

ving

n to

the

and

ices,

Another who had been advanced by Sir John, from his Footman, to Mr. Hauseur's Place, and from thence to a good Office in the Excise, very unwillingly confirmed the Testimony of Hauseur, and the Dutch Maid, not only as to the Time of their going from the Service of Sir John and the Dutchess; but the being no Foreigner, he could not fo easily be fent away to prevent Discovery, and therefore was not let so far into the Secret as Hauseur and the Dutch Maid; yet he swears the Dutchess used to come mask'd to his Master's House; that he has gone with him as far as the Horse Ferry, towards her House at the Mill Bank, that then his Master sometimes lay out all Night, and the next Morning he has carried Linnen and Cloaths for his Mafter to Keemer's House, or Keemer has fetch'd them from him : And this he proves to have been fince the rejecting the former Bill, and about five Years fince, when he was fucceeded by Hauseur, as before he had succeeded Hauseur.

Two other Foreigners, La Fountaine, who had lived with Sir John, and was ferved with Summons at the Dutches's House at Drayton, and Huganoe, who ran away from the Lord Haversham's fince Summons was taken out against him, feem to have had the same Trust that Hauseur had : for both declared, that nothing should oblige them to betray their Master's Secrets: One said, No Court could difpense with his Oath of Secrecy; and both declared they would immediately go beyond Sea. Summons have been taken out for Mr. Brian and his Wife, and Sir John Germain's Brother, (who are, or lately were in Town) to confels or deny what Nicola and Ellen appeal to them for: And it cannot be imagined that Sir John should chuse the Honour of being thought to have to do with a Dutchess, before the clearing her and himself from the Imputation, by bringing his Relations to disprove the Charge, if what is sworn to

be within their Knowledge, is false.

And, if Sir John's Vanity should prevail with him, at least it is to be prefumed, that his Relations would be more just to him and the Lady, than to suffer any thing to pass against them, which they could with Truth and Justice prevent.

III. 1698.

But.

Anno 11 Will.

But, fince none of them appear, the World will believe their absenting more than a thousand Witnesses, in Confirmation of what Mr. Hauseur, Ellen, and Bayly have sworn. Whose Evidence stands untouch'd by any thing offer'd by the Dutchess's Witnesses, but is plainly confirmed by them in the principal Parts.

This being the Nature of the Proofs, 'tis observable,

1st, There never yet was any Case of this kind, where the Evidence was not liable to greater Objections than can be made to this.

Tho' in the latest Case of that kind, there was full Conviction of the Lady's having Children while she lived separate from her Husband; and the Presumption was very violent, whose the Children were; yet this was but Presumption, and that was weakened by the Presumption in Law, that they were the Husband's, especially since there was no direct Proof of the Lover's ever lying with her.

2dy, Tho' in that Case, by reason of the Interval of Parliament, and Fear of the Deaths of Witnesses, a Suit was begun in Dodors Commons, 'twas taken from thence while the Suit was depending; therefore that was rather an Objection against proceeding in Parliament, than an Agru-

ment for it.

3dly, In that Case, several Witnesses were examined at the Bars of both Houses, who had not been examined at Dostors Commons, nor any Notice given of their Names before their Examination.

4thly, It appears by that Case, and the present, that the Examinations in Parliament are more solemn and certain than those of the Spiritual Court; which depend too much

upon the Honesty of the Register, or his Deputy.

5thly, Before that Case, Parliaments have either broken through the Rules which bind the Spiritual Court, as in the Case of the Duke of Norfolk, I Eliz. where the Parliament ratisfied a Marriage, as lawful according to God's Law; tho protracted and letted, by reason of certain Decrees and Cannons of the Pope's Law; or else have dissolved a Marriage where there had been no Application to Doctors Commons, as in the Case of Mrs. Wbarton, who had been married to Mr. Campbel; and yet there had been no Examination of Witnesses, but what had been before the two Houses.

So long before, in the Case of Sir Ralph Sadler, upon Proof before the two Houses that the Lady Sadler's former Husband had deserted her, and disappeared for sour Years before she marry'd Sir Ralph, the Parliament legitimated her Children

by Sir Ralph.

Whereas some object against the Passing the Bill, as if Anno 11 Wall. it would countenance a Jurisdiction in the House of Lords to examine to such Matters, in the first Instance or originally; the Objection would be the same if it had begun, as it might, in the House of Commons; but in truth, would be of equal Force against most private and public Acts, occasioned by the Examination of Witnesses or Notoriety of Fact.

Since therefore the Duke has so long, and so often in vain endeavoured to be freed from a Lady, publicly famed and proved to have lived with Sir John Germain, as his Wife; the Duke's former Disappointments cannot but be powerful Arguments for his speedy obtaining that Justice which the Spiritual Court cannot give him; their Power reaching no farther than to that Liberty of living as she list; some Years fince fettled by Articles: But as none of less Art and Oratory than her Counsel could have turned this into a License to commit Adultery, if she list, or a Pardon afterwards; had not there been Evidence of her acting according to such Construction, the Duke would have hoped she had repented of the former Injuries he had received from her; but now hopes the shall not longer continue to bear the Name of his Wife, and put him in Danger of being succeeded by Sir John Germain's Issue, or deprive him of the Expectation of leaving his Honours, Offices, and Estates, to a Protestant Heir.

April the 4th, The Order being read for refuming the Bill for granting Debate adjourned Yesterday, upon the Bill entitled, An Act an Aid to his for granting an Aid to his Majesty by Sale of forseited Estates Majesty by Irish Forseitures and and Interests in Ireland, and by a Land-Tax in England, for a Land-Tax. the several Purposes therein mentioned.

And Debate thereupon, the Question was put, Whether

this Bill shall be read a second time?

It was resolved in the Assirmative. Contents 70; Not contents 23.

Dissentient'

6-

y.

10

n

n-

1-

3-

n,

at

138

14

as

le

b-

u-

at

at e-

he

in

en

he

nt

10

n-

ge

as

to

of

of

nd

he

en

23

Though there be nothing we most earnestly desire, and Protest thereon. shall on all Occasions, to the utmost of our Power, more sincerely and heartily endeavour, than the Preservation of a constant, right and goodUnderstanding and Agreement between the two Houses of Parliament, as that on which the Sasety, Welfare, and Happiness of the Nation, and the Preservation of the wisest and noblest Constitution of the World, does so much depend; yet we cannot but enter this our Protestation against a second Reading of this Bill.

1st, Because, as we conceive, this Bill does, in one Part, tend very much to the Alteration (if not to the Destruction) of that Constitution which, we believe, the Supply in the other Part was given to preserve.

2dly,

Anno I Will. III. 1699.

adly, Because, we conceive, the tacking so many and different Matters to a Money-Bill, is not only contrary to all the Rules and Methods of Parliament, but highly dangerous both to the undoubted Prerogative of the Crown, and Right of this House, putting it, as we conceive, in the Power of the Commons to make any Resolutions of their own as neceffary as any Supply given for the Support or Emergencies of State.

adly, We know not how far the just Right any private Subject has to his Effate may be endangered by the Precedent of fuch a Bill; for if the Titles fo many Persons have to their Estates may be determined by the Commons in a Money Bill, without either Oath or Appeal, as, we conceive, in this Bill they are, we cannot apprehend, how any fingle, private Subject, or Minister of State, can, for the future, be fafe; which must needs be a weakening the Prince's Hands, and the legal Security every Man now has to his Estate.

Richmond, Haversham, Mohun, Stamford, Bolton, Audley, Bergevenny, Anglesea.

Free Conference

The 10th, A free Conference having been had with the on the faid Bill, Commons, upon the Subject-matter of the Amendments made by the Lords to the Bill for granting an Aid to his Majesty by Sale of the forfeited Estates and Interests in Ireland, and by a Land-Tax in England, for the feveral Purposes therein mentioned; and Report made that the Commons had used no Reasons at the said free Conference, but faid, they had Orders to return the Bill, and leave it with the Lords.

After Debate the Question was put, Whether this House will adhere to their Amendments made to this Bill?

It was refolved in the Negative. Contents 40, Proxies 3; in all 43: Not contents 47, Proxies 6; in all 43.

Then the Question was put, Whether this House will agree

to the faid Bill without any Amendments?

Bill pafs'd.

It was resolved in the Affirmative. Contents 39; Not contents 34

We do diffent for the Reasons given this Day to the Commons at a Conference, which Reasons are as follow:

Protest thereon.

ift, Because the Reasons given by the Commons against their Lordships Amendments do no way relate to the Matter contained in the faid Amendments.

adly, Because though there be nothing in the faid Amendments relating to Aids and Supplies granted to his Majesty in Parliament, yet the Commons have thought fit to take occasion thereupon to affert a Claim to their sole and entire Right, not only the granting all Aids in Parliament, but

that

III. 1699.

that fuch Aids are to be raised by such Methods, and with such Anno 12 Will. Provisions as the Commons only think proper: If the faid Affertions were exactly true (which their Lordships cannot \ allow) yet it could not, with good Reason, follow from thence, that the Lords may not alter, or leave out, according to their Amendments, when the faving the Estates of innocent Persons, and of such as have been outlawed after their Death, makes such Amendments necessary.

nd

all

ous

ht

of

ne-

ies

ate

ce-

TTC

1 2

ve,

le, be

ds,

ley,

the

ents his

Treur-

mbut

rith

ufe

3;

ree

Not

om-

inft

tter

end-

efty

ake

tire

but hat

adly, And the Lords think it unreasonable and unjust to vest in the Trustees any greater, or other Estate, than was in the forfeiting Person, or than the King may legally have; fince thereby not only many innocent Persons, who come in by Descent or Purchase, or other valuable Considerations, might suffer equally as Criminals, but 'tis possible, that Men. who, with the utmost Hazard of their Lives have been defending the Government, may forfeit as Traitors: And they cannot apprehend, that by any Law of this Land, or by any Rule of Reason or Justice, any Person ought to be outlawed after Death, fince 'tis condemning a Man unheard, allowing him no Opportunity of making his Innocence ap-

4thly, The Lords admit the Resumption of the forseited Estates in Ireland to be a Thing necessary, by reason of the great Debt due to the Army and others, which they earnestly befire to see discharged, and are therefore very willing and defirous to give their Consents to any reasonable Bill the Commons shall fend them up to that Purpose: But the Lords can by no means confent, that the Commons shall ake upon them to dispose of any of the said Forseitures to my private Persons, it being the sole and undoubted Right f the Crown to be the Distributer of all Bounties, and eing contrary to all the Laws and Course of Parliaments, o give Aids, Supplies, or Grants, to any but the King only; and as the contrary Practice is totally new and unprecedented, so, in Process of Time, it may become of the aft ill Consequence to the Public.

5thly, The Lords cannot agree to the Clauses that create n Incapacity in the Commissioners or Managers of the Excise for sitting in this Parliament, because the Qualificaions of Members to ferve in Parliament is a Thing (if proer to be meddled with at all) that hath been thought fit by he Commons to be in a Bill by itself; and the joining toether, in a Money-Bill, Things fo totally foreign to the Methods of raising Money, and to the Quantity or Qualifiation of the Sums to be raised, is wholly destructive of the freedom of Debates, dangerous to the Privileges of the 1699. Lords,

Anno 12 Will. Lords, and to the Prerogative of the Crown : For by this III. 1699. Means Things of the last ill Consequence to the Nation may be brought into Money-Bills, and yet neither the Lords, nor the Crown, be able to give their Negative to them, without hazarding the Public Peace and Security: And it feems a great Hardship to the Counties and Places, who chuse fuch Members, to deprive them of their Services, fince they knew them to be Commissioners of Excise at the Time they chose them; and fince the Commons admit them to be proper Persons to serve either in Excise or Parliament, tho' not at the same Time; so that there seems to be no other Reafon of diftinguishing these Commissioners, but what is common to all other Officers of the Crown; and the Question, whether fuch an Alteration may be convenient, must needs he a Doubt with the Lords, fince the Commons have not been able this very Session to satisfy themselves with the Bill, and the Confiderations they have entertained upon that Subject : The Lords do feriously consider the Dangers and Inconveniencies that are likely to happen by the Loss of this Bill, and by the Difference betwixt the two Houses, and are heartily forry for them, and defirous to avoid them by all the Means they can; as does manifefly appear, by having complied and overlooked the Irregularities of Bills of the like Nature, and, at the same time, by entering in their Books, to be seen by every Body, their just Sense of the Wrong, and their Resolutions of afferting that fundamental Right, of the Exercise of which there are many Precedents extant in their Books: But fince they find, that fuch their kind Intentions of maintaining a good Correspondence with the Commons have had no other Effect, but to introduce greater Impositions upon them, and such as will certainly prove destructive to the antient and excellent Constitution of our Government, fince the Lords have no Objection to the Resumption, nor no Design to invade the least Right of the Commons, but only to defend their own, that they may transmit the Government and their own Rights and Privileges to their Posterity in the same State and Condition that they were derived down to them from their Ancestors; they think themselves wholly discharged from being in the least accesfary to any fuch Dangers or Inconveniences, and conceive they are sufficiently justified before God and Man, notwithstanding such Innovations and Invasions upon our Constitution and our Laws as must necessarily prove the Destruction of them.

> Norfolk, E. M. Mobun, Haversbam, Say and Seal, Anglefea, R. Ferrers, Raby, J. Bridgewater, Culpeper, How-

ard, Southampton, Sandwich, Lonfdale, Bergevenny, Stam- Anno 12 Willi ford, Audley, Herbert, Richmond, Pembroke, Bolton, North and Grey.

For a further Illustration of this Debate between the two Houses see CHANDLER's Hist. Anno I I W. III. 1700, Page 126; as likewise, Page 127, the King's Speech at proroguing the Parliament, which in December was dissolved.

Nowithstanding the second Partition-Treaty in favour of King sets out for France, occasion'd by the Death of the Electoral Prince of Holland. Bavaria, had been compleated in March, his Majesty had fill other Calls to Holland, and, accordingly, embarked at

Margate, June the 28th.

is

ay

or

hms

ule

ey

iey ro-

not

ea-

mon,

eds

pot ill,

ub-

In-

this

are

all

ing

the

heir

the ntal

ents

heir

vith

uce

nly

n of

the the

may eges

hey

ink

ccef-

eive

vith-

litu-

Rion

ngls-

loward,

But the King's Absence, Custom had taught the Nation to Support; the Death of the Duke of Gloucester, which hap Duke of Gloupened July the 29th, was a sudden Blow, then severely felt, tester's Death; and both now and ever to be lamented: Even the King is aid to have been touched with the premature Loss of this young and hopeful Prince, but was nevertheless so careful of the Protestant-Interest, that, in the September following, he admitted a Visit from the Princess Sophia; at which Interview no doubt the Succession was not forgot, fince, in his Speech to the new Parliament, he recommended it very strongly to their Consideration.

Ochober the 18th, His Majesty landed from Holland, and And that of the November the 1st, N. S. the King of Spain died, having some King of Spains little Time before bequeath'd his Crown by Will to Philip Duke of Anjou, second Son to the Dauphin, in Resentment of the Partition-Treaty; who, in Violation of that Treaty, was foon after declared King of Spain by the Court of France. and even acknowledged as fuch, notwithstanding, by King

William and the States-General.

Europe was in this Situation, when

The Fifth Parliament of King WILLIAM

AS opened at Westminster, February the 6th, with a Speech from the Throne to both Houses, which fee in Chandler's History, Anno 12 Will. III. 1700, Page 127, and the next Day was communicated to King commuboth Houses, by his Majesty's Order, a Letter, which came nicates an invery providentially to his Hands, out of France, whether by tercepted Letter Mistake of the Officers of the Post-house at Paris, or the Melfort. Dexterity of King William's Spies at the Court of St. Gerrains, is uncertain. This Letter it seems was sent by the Earl of Melfort, to his Brother the Earl of Perth, then Governor to the Prince of Wales, and contain'd in general a D 2 Project

III. 1700. Lords Address of Thanks

Anno 12 Will. Project for the Restoration of King James. The Lords presented an Address, humbly returning their Thanks and Acknowledgments to his Majesty, for the Concern express'd in his Speech for the Protestant Religion, and his Care for its Preservation, by recommending to their Con-· fideration for a further Provision for the Succession to the Crown in the Protestant Line. They added, 'That, being deeply sensible of the Weight of what his Majesty had further recommended to them, they could not but defire he would be pleas'd to order all Treaties made by him fince the late War, to be laid before them, that they might thereby be better enabled to give their Advice. they requested his Majesty to engage in such Alliances abroad, as he should think proper for preserving the Ballance of Europe, affuring him they would readily concur with whatever should be conducive to the Honour and Safety of · England, Preservation of the Protestant Religion, and the Peace of Europe. Next, they humbly thank'd his Majesty for communicating the beforemention'd Letter to them. and defir'd he would be pleased to order the seizing of all · Horses and Arms of Papists, and other disaffected Persons, and have those ill Men removed from London according to Law; but especially they defired he would please to give Directions for a Search to be made after Arms and Provifions of War mentioned in the faid Letter. Laftly, They

King's Answer.

his Majesty in his great Wisdom should think necessary for the Defence of himself and Kingdoms. His Majesty " thank'd their Lordships for this Address, and assured them. " he would take Care to perform all that they had defired " of him."

requested that such a Fleet might speedily be fitted out as

Motion for the Countefs of Anglesea, to bring paration.

March the 2d, An Account was given to the House by certain Lords appointed to visit the Countess of Anglesea, in in a Bill of Se- order to persuade her to return to her Husband, of her Reafons for her Refusal; and after hearing the Earl of Anglesea, and reading the Countess's Petition, and Debate thereupon,

> The Question was put, Whether the Countess of Anglesea shall have Leave to bring in a Bill for a Separation for Cruelty, as is prayed for in her Petition?

It was resolved in the Affirmative.

Diffentient'

Protest thereon.

th, The Leave for this Bill is founded upon the Supposition of an utter Impossibility of a Reconciliation between my Lord Anglesea and the Countess; which Supposition (with Submission) seeming to me very precarious, tho' it may be the Consequence of such a Bill, cannot, to me, be the Reason for it.

2dly, Marriage being looked upon in the Church of Anno 12 will.

Rome as a Sacrament always, and in all Cases indissoluble, III. 1700.

ut by the pretended Authority of the infallible Vicar, and here being, in some Cases, an absolute Necessity for a Divorce, the Roman Courts of Judicature, fearing to expose the Weakness of the Infallibility, contrived this Trick of a eparate Maintenance; which Practice of theirs, I humbly onceive, such a Bill would give too much Countenance to.

adly, A perpetual separate Maintenance, as seems inended by such a Bill, is a much heavier Judgment upon the Earl of Anglesea than Divorce itself, it having all the Nature of a Punishment to my Lord Anglesea, and nothing of Ease; and is directly contrary to the very Appointment and Design of Marriage, Posterity and Society being destroyed, and the Public injured thereby.

athly, No Judgment in this Matter (as I humbly conceive) ught to be made, or when made can be valid, but what is aprelly allowed of by the Evangelic Law, which Law, to ne, feems no where to permit of such a perpetual Separation,

vithout an absolute Divorce.

5thly, Tho' it cannot be doubted, but in the Course of so nany Ages, as great domestic Differences have happened beween Men and their Wives as in the present Case, yet no recedent has as yet been produced, as I know of, of any

Bill of the like Nature.

rdi

k

ex.

his

on-

ing

iurhe

nce ght

hal

s 2.

nce

of the

efty em,

all

ons.

g to

hev.

t as

fot efty em

ired

by

, in

lea-

sea,

in, lefea Tu-

ofi-

my

be !

fon dly,

Haversham.

March the 8th, After reading Captain * John Norris's Petion of the 7th Instant, as also his Instructions from the Ad-Captain Norris's Suspition taken niralty, and some Councils of War held on Board, at New-off.

The Question was put, Whether the said Captain, having in near two Years under a Suspension upon an Address om this House to his Majesty, that an Address shall be add to his Majesty to take off the said Suspension he lieth nder?

It was resolved in the Affirmative.

Diffentient'

For that Captain Norris having been accused by many Vitnesses, upon Oath, of great Neglect of his Duty, in not Protest thereon, tacking Monsieur Ponti's Ships in Conception-Bay, notwith-anding the Intelligence given of them to him by Captaiu esborow, Cumberbatch, and several Prisoners, and of pesterg his Ship with Prize-Goods, which he has embezzled; and thereupon this House having made an Address to his sajesty, to order Captain Norris to attend this House to anver such Matters as had been so objected against him, and

* Afterwards knighted, and made an Admiral.

Anno 12 Will that, in the mean time, he should be suspended from his Emi-III. 1706. ployment, which his Majesty has been pleased to order; and accordingly Captain Norris having appeared before us, but the Matters not having been fully examined, by hearing at this time the Witnesses either against him or for him, we conceive it very improper to make any fuch Address in his Favour, he being, for all as yet appears to us, guilty of the Matters charged upon him; and we are the more convinced of this, because the Motion made of remitting Captain Norris to a Trial, by a Council of War, was not accepted; and besides the Unreasonableness of passing any Sentence of acquitting a Man accused, upon Oath, without a full Hearing of the Cause, we think it also of very dangerous Consequence that, in this Conjuncture especially, a Man should be capable of being employed in fo important a Station as in the Fleet, who lies under the heavy Charge of embezzling Prizes, and pestering his Ship with them, and of failing to attempt a Service which would have been of vast Advantage to us, and Prejudice to our Enemies.

> Willoughby, Leeds, Howard, Normanby, Jeffreys, Poulet, Nottingham, Thanet, Torrington, Weymouth, Oxford, Granville.

Earl of Portland charged with having advised the Partition-Treaty.

About the Middle of this Month, perhaps the 14th, the Lords taking the Partition-Treaty into Confideration, some Days after, they loudly expressed their Disapprobation thereon, which they wholly laid at the Earl of Portland's His Lordship however excused himself by saying, That the Duke of Leeds, the Earls of Pembroke, Jersey and Marlborough, the Lords Sommers and Hallifax, and Mr. Vernon, had their Share in that Negotiation as well as himfelf; whereupon the Peers his Lordship had named did readily acknowledge, that they had, indeed, feen the rough Draught of the Treaty, but that the Earl of Portland had drawn it up by himself in French; and as for themselves, that they had neither given, nor refused their Consent to it; because the Treaty was never communicated to the Privy-Council. Upon this Occasion the Marquis of Normanby made an eloquent Speech, which was generally applauded; and because fome Peers had spoke very reflectingly of the King of France, the Earl of Rochester took them up, and said, That all Men ought to speak respectfully of Crown'd-Heads, and that this Duty is more particularly incumbent on the Peers of a Kingdom, who derive all their Honour and Lustre from This was backed by another Earl, who faid, the Crown. That the King of France was not only to be respected, but likewise to be seared: To whom another Member of that illustrious

t

I

U

Marquis of Normanby.

Earl of Rochefter.

iffustrious Affembly replied, That he hoped, no Man in Anno 12 Will. England needed be afraid of the French King; much less the Peer who spoke last, who was too much a Friend to that Monarch to fear any thing from him. After a long and warm Debate, the Lords fent a Message to the Commons, to Message to the acquaint them, That there having been lately a Treaty Commons remade with France, extremely dangerous in itself, and transtaid Treaty. acted also in a most irregular manner, the Lords had thought fit to communicate it to the House of Commons, and to defire them to appoint a Committee for meeting a Committee of the Lords, in order to their joint Confideration of some Method to be used in making such an Application to his Majesty about this Matter, as might for the future prevent any Proceedings of this kind.' At the same time the Lords defired the Commons, that Mr. Vernon, one of their Members, might come to a Committee of the Upper House, to give an Account of some Matters relating to the Treaty of Partition, which the Commons readily granted.

III. 1700.

March the 15th, The Earl of Nottingham reported from Facts as to the the Committee appointed to draw up and state the Facts, as Treaty of Partito the Treaty of Partition, that they had thought proper to tion flated. fet down such Facts as appeared to them.

And the second Head being read, viz. That the Emperor was not a Party to this Treaty, tho' principally concerned,

The Question was put, Whether this Paragraph shall

It was resolved in the Negative. Contents 24; Not contents 40.

Diffentient'

n

g

to

t,

d,

he

ne

on d's

ıg,

nd

er-

lf:

ily

ght

wn

ley

ule

cil.

elo-

ule

of

hat

and

eers

om

aid,

but

that

OUS

1/t, Because it is manifest by the Treaty itself, that the Protest thereon. Matter of Fact is true.

adly, Because the Emperor, as we conceive, had been the most proper to have treated with on this Occasion, for 'twas more prudent and fafe to have treated with the Emperor to have restrained the Pretensions of France, than with France to lessen the Dominion of the House of Austria, which, in its full Strength, and in Conjunction with the most conside. rable Powers in Europe, and with the Expence of more than fixty Millions flerl. to our Share, was scarce able to withstand the Arms of France.

3dly, But, admitting that the Emperor was not the most proper to be treated with, yet, to prevent the Umbrage that might be taken by uniting too many Dominions under one Prince, especially such a Prince as, without any Additions, was formidable to all Europe, of all others the Emperor was the most improper to be lest out of such a Treaty, for he was most concerned in it; and our Ministers could not, or

Anno 12 Will at least did not, sufficiently support his Interest, or the just III. 1700. Ballance of Europe; but, on the contrary, as we are inform. ed, by one Lord who figned the Treaty, it was concluded a. gainst the express Desire of the Emperor.

> De Longueville, Howard, Thanet, Craven, Hereford, The. Roffen', Granville, Scarsdale, Jeffreys, Leeds, Weymouth, Abingdon, Normanby, Guilford, Nottingham, Poulett.

Third Head,

Then the third Head was read, viz. That no Minister of the States-General met with the Plenipotentaries of England and France, as were required by the Powers at the making the Treaty in London.

The Question was put, Whether this Paragraph shall

fland ?

It was resolved in the Negative.

Diffentient'

Protest thereon.

1ft, Because the Truth of this Proposition is Reason enough for afferting it, and it must certainly be of fatal Consequence, if Ministers, without any Directions by Instructions in Writing, shall presume to act contrary to the very Commission that empowers them; and, in this Case, the Assistance of the Dutch Ministers was the more necessary, because the Emperor was no Party to this Treaty, and the States-General are more immediately concerned, than we are, to promote his Interests.

2dly, But if this Treaty was concerted with the Dutch Ministers in 1699, before his Majesty's Return into England, as was afferted by one of the Lords who figned it afterwards in

London, then,

1st, This Treaty was made by those who had no Authoty to transact it, for the Power was not granted by his Majesty till the 2d of January following.

2dly. As they acted without Power, fo without Instruction too in Writing, which never was practifed in any former

Transactions abroad.

Laftly, We conceive, that neither of the foregoing Facts ought, in Reason, or according to the Method of Parliament, to be ordered to be omitted, because, till the Committee had formed the Address, pursuant to the Order, 'twas impossible to know what Use would be made of those Facts; for as they might have been improperly applied, and then would have been justly rejected, so there might have been so great use made of them, and so opposite to the Design of the House, in the intended Address, that it will be improper to omit them.

Thanet, Leeds, Tho. Roffen', Hereford, De Longuewille, Granville, Craven, Weymouth, Normanby, Howard, Jeffreys, Abingdon, Nottingham.

The

The 18th, After Debate concerning the Treaty of Parti. Anno 12 Will tion, it was proposed, that it appears, that the French King's Acceptance of the Will of the King of Spain is a manifest Violation of the Treaty, and humbly to advise the King, that, in all future Treaties with the French King, his Majesty do proceed with such Caution as may carry along with it a real Security.

After Debate thereupon, the Question was put, Whether Question relathe faid Proposal shall go to the Committee to be one of the ting to the French King's

Heads for the Address ?

It was resolved in the Affirmative.

Diffentient'

4-

of ind

ing

nall

ugh

nce,

Vri-

fion

the

ror

nore

efts. Mi-

d, as

ds in

itho-

Ma-

Rions

rmer

Facts

ment,

e had

offible

s they

have

at ufe

House,

omit

Gran-

effreys,

The

1/f, Because it must be construed to be an Approbation of Protest thereon. the Treaty, which (as we conceive) was not intended by the House.

2dly, Becouse it is impossible to know the full Meaning and

Extent of real Security.

Nottingham, Granville, Normanby, Rochester, Weymonth, Abingdon, Guilford, Godolphin.

The 20th, An Address to his Majesty touching the Treaty Address touching the Treaty of Partition was reported and agreed to. of Partition

And the Question being put, Whether this Address shall be communicated to the House of Commons for their Con-

It was refolved in the Negative. Contents 27; Not con- Not to be coments 45.

municated to the Commons.

III. 1700.

Acceptance of

the King of Spain's Will.

Diffentient'

1/t, Because, we conceive that the last Clause in the Ad- Protest thereon. reis does necessarily imply a War, and that a very long one, by reason of the Extent, unintelligible at least to us, of a real ecurity, and the greatest Improbability of obtaining any Terms of that kind; and fince this necessarily implies great applies, which cannot be granted without the House of Commons, we think their Concurrence, in this Advice, abolutely necessary, and that it is very improper for us to defire hat of the King, which, for want of such Concurrence of he Commons, we conceive, his Majesty will not think fit or rudent to grant.

2dly, We conceive all the other Parts of the Address very t to be communicated to the House of Commons, for upon he Success of it depends the future Happiness of this Naion; and as we cannot doubt of the Readiness of the Comhons to join in any proper Measures towards it, so we think heir Concurrence in it would highly contribute towards the btaining a gracious Answer from his Majesty; and we canot but think it reasonable that the Advice of the whole Na-

1700. tion, nno 12 Will, tion, affembled in Parliament, should be made known to his III. 1700.

Majesty upon this Occasion.

adly, Having defired the House of Commons to permit Mr. Secretary Vernon, a Member of their House, to come to a Committee of Lords to inform them of some Matters relating to this Treaty; we apprehend, that the House of Commons may think it extraordinary, and not fuitable to the good Correspondence which is highly necessary between the two Houses, not to acquaint them with the things which have come to our Knowledge, partly by the Information of their own Member.

4thly, And having been otherwise informed of some Trans. actions relating to this Treaty between the Earl of Portland and Mr. Secretary Vernon, by Letters, of which we have not had a full Account, we think it may be very useful to the Public to communicate this Address to the Commons, who have better Opportunity than we have had of enquiring into this Matter, which feems to be yet in the dark, and which their own Member may help to explain to them.

Leeds, De Longueville, Weymouth. Jeffreys, Guilford, Tho. Roffen', Poulet, Bath, Abingdon, Craven, Willoughby, Kent, Carnarwon, Nottingham, H. London, Normandy, Hunsdon, Thanet, N. Duresme, Scarsdale, Granville,

A Counter-Address to one of the Com-Presence.

On Occasion of this Treaty the Commons impeached the Earl of Portland, the Earl of Oxford, Lord Somers, and Lord Hallifax; and addressing his Majesty to remove them from to the Removal his Presence and Councils, it drew from the Peers a Counterof certain Lords Address, which, being carried by a Majority of twenty, ocfrom the King's casioned the following Protest:

Diffentient'

Protest thereon.

1st, Because, we conceive, it is contrary to the Method of Proceeding in Parliament, to take notice in this Houle of what is represented only, by some Lord's, to have passed in the other.

zdly, And it is not proper to address the King on a Subject that is not before this House to judge of, which may engage this House in what is indecent towards his Majesty, and

may be of ill Consequence between the two Houses.

Scarfdale, Normanby, Carnarvon, Thanet, Ormond, Keni, Townshend, Abingdon, Jonat. Exon', Lexington, H. Lowdon, Sandwich, Cholmondeley, Weymouth, Ashburnham, Hereford, Granville, Guilford, Willoughby, Rochester, Howard, Poulet, Weston, Jeffreys, Dartmouth.

Laft Protestation to be expunged,

But Exception being taken to the beforementioned Protestation, the Protestation was read;

And after Debate, the Question was put, Whether the first Reason in the Protestation shall stand?

I

It was refolved in the Negative. Contents 22; Not con- Anno 13 Will. tents 28.

Then the fecond Reason in the Protestation was read.

After Debate, the Question was put, Whether the second Reason in the Protestation shall stand?

It was resolved in the Negative.

The foregoing Reasons were order'd to be expunged, but the above may be depended upon as a genuine Copy.

Diffentient'

115

r.

12

ng

ns

es,

nuc

er.

nf-

ind

not

the

ho

nto

ich

bo.

the

ord

mo"

ter-

OC-

hod

oule

ffed

Sub-

en-

and

Kent,

Lox-

am,

fter,

Pro-

firft

1

Because it is the Privilege of the Peers to enter their Dis-Protest thereon, sent, and it has been the ancient Practice to enter also their Reasons of such Dissent, of which the Lords that so protest are the most proper Judges, as well knowing what Arguments persuaded them to be of that Opinion; and no Reasons can be more proper than such as they conceive are sounded upon Matter of Fact.

Sandwich, Carnarwon, Fewersham, Rochester, Weymouth, Howard, Granville, Poulet, Lexington, H. London, Jonat. Exon', Willoughby, Ormond, Normanby, Thanet, Scarsdale, Townshend, Abingdon, Dartmouth, Weston, Guilford, Jesfreys.

The Address itself was to the following Purpose; 'That The said Ad-, the Commons having severally impeached, at the Bar of dress.

their House, the Earls of Portland and Orford, and the Lords Somers and Hallifax, of High Crimes and Missemeanors, and having acquainted their Lordships that they would, in due time, exhibit particular Articles against these impeach'd Lords, and make the same good; they most humbly besought his Majesty, that he would be pleased to pass no Censure upon them, till they were tried upon the said Impeachment, and Judgment were given, according to the Usage of Parliament and the Laws of the Land.

To this Address, tho' presented by the Duke of Devonshire, The King reand the Earl of Romney, two Persons greatly in the King's turns no An-Interest, his Majesty gave no manner of Answer; at which swers the House of Lords were somewhat piqued, and thereupon appointed a Committee to enquire, if there was any Prece-

dent of the King's Silence upon the like Occasions.

This drew on a long and vehement Controversy between the two House (to be found in Chandler's Hist. as likewise the Articles against the four Lords, and the Replies, Anno 13 Will. 1701, from page 147 to 182,) in the Course of which occur'd the following Particulars, being all that are necessary to render the History of that remarkable Assar complete.

July the 3d, Report was made of an Answer, drawn by Answer to the a Committee, to be sent to the House of Commons, to their Commons re-E 2 Mossage Ported.

Anno 13 Will. Message received the 31st of May last, relating to the Im. peachments now depending against the four Lords. And the first Paragraph being read, was agreed to.

First and second. Paragraphs read.

Then the fecond Paragraph was read as follows, viz. (And as the Lords do not controvert what Right the

Commons may have of impeaching in general Terms, if they please, so the Lords, in whom the Judicature does entirely refide, think themselves obliged to affert, that the Right of determining what is a due Time, in which the particular Articles of Impeachment ought to be exhibited,

is lodged in them only.)

Amendment propos'd,

It being proposed that an Amendment be made in this Paragraph, that instead of the Words, viz (Determining what is a due Time in which the particular Articles of Impeachment ought to be exhibited, is lodged in them only) these Words may be inserted, viz. (Limiting a convenient Time for bringing the particular Charge before them for the avoiding Delay in Justice, is lodged in them.)

After Debate, the Question was put, Whether the second

Paragraph, fo amended, shall stand?

And agreed to.

It was resolved in the Affirmative. Contents 43; Not contents 27.

Dissentient'

Protest thereon.

Because, we conceive, this Assertion is new.

Normanby, Oxford, Jonat. Exon', Weymouth, Jeffreys, Lindsey, Howard, Nottingham, H. London, Lexington, Plimouth, Guilford, Lawarr, Hunsdon, Marlborough, Tho. Roffen', Rochester, Granville, Cholmondeley, Dart. mouth, Godolphin.

Last Paragraph.

Then the last Paragraph was read, as follows, viz.

The Lords hope the Commons, on their Part, will be as careful not to do any thing that may tend to the Interruption of the good Correspondence between the Houses, as the Lords shall ever be on their Part; and the best Way to preserve that, is for neither of the two Houses to exceed those Limits which the Law and Custom of Parliaments have already established.)

And, after Debate, the Question was put, Whether the

laft Paragraph shall stand?

Agreed to.

It was refolved in the Affirmative.

Diffentient'

Protest thereon.

Because we know not that the Law and Custom of Parliaments have established any certain Limits.

Normanby, H. London, Rochester, Oxford, Guilford, Howard, Dartmouth, Cholmondeley, Nottingham, Tho. Roffen', Abingdon, Granville, Lexington, Plymouth, Hunfdon, Marlborough,

borough, Jonat. Exon', Weymouth, Jeffreys, Lindsey, La- Anno 13 Will.

The 9th, It being moved to have a Conference with the Resolution not Commons, to let them know, that the Lords do not agree to have a Common a Committee of both Houses in relation to the Trials of mittee of both the impeached Lords; after Debate thereupon,

This Question was put, Whether a Committee of this Trials of the House shall be appointed to meet with a Committee of the impeached House of Commons, in relation to the Proceedings upon Lords.

the Impeachments?

It was resolved in the Negative.

Diffentient'

Im,

the

, if

en-

the

the

ted,

this

ing

Im-

nly)

ient

for

ond

Not

reys,

ton,

ugh,

art.

l be

ises, Way

ceed

ave

the

Par-

low.

fen', Iarl-

ugh,

Because the Lords, in the Year One thousand six hundred Protest thereon, seventy-nine, consented to a Committee of Lords and Commons, for regulating the Trials of the Popish Lords; and therefore the resusing to comply with the Commons in the same Request, at this Time, will be (in our Opinion) a great Obstacle to the Trials of the impeached Lords.

Somerset, Denbigh, Lawarr, Jonat. Exon, Oxford, Peterborough, Dartmouth, Derby, Rochester, Guilford, Carnarwon, Lexington, Nottingham, Howard, Normanby, Weymouth, Torrington, Marlborough, Abingdon, H. London, Godolphin,

The 11th, The Message received Yesterday from the House No Lord, upon of Commons was read; and after Debate of the several Par- his Trial to be ticulars contained in it,

This Question was proposed, That no Lord of Parlia. Bar. ment, impeached of high Crimes and Misdemeanors, and coming to his Trial, shall, upon his Trial, be without the Bar.

Then the previous Question was put, Whether this Question shall be now put?

It was resolved in the Affirmative.

Discentient'

Because, however reasonable this Proposition may appear Protest thereon. to us, yet we conceive it very improper to determine it, before we have heard what the Commons can say upon it.

Nottingham, Jonat. Exon', Abingdon, Weymouth, Tho. Roffen', Guilford, H. London, Rochester, Torrington.

The 11th, A Message was sent to the House of Commons Message to the by Sir John Hoskins and Dr. Newton, to acquaint them, that Commons for upon the Occasion of their last Message Yesterday, in order a free Conseto continue a good Correspondence between the two Houses, rence. their Lordships did immediately appoint a Committee to state

III. 1701.

Anno 13 Will. flate the Matter of the free Conference, and also to inspect Precedents of what has happened of the like Nature; and that the public Bufiness may receive no Interruption, the Time defired by their Lordships for renewing the free Conference being elapsed, their Lordships desire a present free Conference in the Painted Chamber upon the Subject-matter of the last free Conference.

Diffentient'

Protest thereon.

We conceive it to be improper, and not agreeable to the Methods of Parliament, to fend for a second free Conference before the first is determined, or that there is a Vote of the House passed for insisting.

Denbigh, Weymouth, Carnarvon, Dartmouth, Lawarr, Abingdon, Peterborough, H. London, Jonat. Exon', Tho.

Refolution not mittee of both Houses insisted upon.

The House being moved to insist not to have a Committee to have a Com- of both Houses touching the Trials of the impeached Lords,

After Debate thereupon, the Question was put, Whether this House shall infift upon their Resolution of not allowing a Committee of both Houses?

It was refolved in the Affirmative.

Diffentient'

Protest thereon.

We conceive it to be improper, and not agteeable to the Methods of Parliament, to pais a Vote for affilting, before the first free Conference is determined; or if it be determined, as we conceive it is not, the Vote for infifting should have preceded the Message for a second Conference.

Abingdon, Weymouth, Carnarvon, Jonat. Exon', Thanet, Lawarr, Peterborough, Dartmouth, Nottingham, H.

The 21st, The Answer of John Lord * Haversham, to

LordHaversham to be declared Commons

it be prosecuted.

the Charge fent up against him by the Commons, having innocent of the been fent down to that House,

It was proposed to resolve, that unless the said Charge Charge, unless shall be prosecuted against the said Lord Haversham, with Effect, by the Commons, before the End of this Seffion of Parliament, the Lords will declare and adjudge him wholly

innocent of the faid Charge. The Question was put, Whether such a Resolution shall

be agreed to? It was resolved in the Affirmative.

Dissentient'

rotest thereon.

1 ft, Because the Justice of our Judgment of acquitting the Lord Somers depending on our Right to name a peremptory Day, I do conceive that by this Vote that Right is vio-

* See CHANDLER'S Hift. Anno 13 W. III. 1701. Page 165.

lated, the Commons being by it allowed to declare when Anno 13 Will. they are ready to profecute, before any Day is by us named. III. 1701.

2dly, Because having thought sit to name a Day for the Impeachment of the Lord Somers, to be confissent to ourselves, we ought to pursue the same Methods: Nor does this, being a Charge only, alter the Case; for what is done in Matters of greater Moment may safely be pursued in Cases of less Concern.

3dly, Because, to me, there does not seem any need of farther Prosecution on the Commons Part in this Matter, the Fact and the Nature of it being both fully before us.

North and Grey.

The 23d, The House resumed the adjourned Debate upon Printed Votes the printed Votes of the House of Commons of the 20th of the Commons Instant:

And it was refolved, upon the Question, that whatever ill Reflections Consequences may arise, from the so long deferring the Supplies for this Year's Service, are to be attributed to the fatal Council of putting off the meeting of a Parliament so long, and to the unnecessary Delays of the House of Commons.

Dissentient'

.

e

T

g

10

re

re

t,

to

g

th

of

ly

all

ng

P-

o-

Because tho', I humbly conceive, it is evident to all Eng-Protest thereome lishmen, that nothing could be more fatal to the Interest of Europe, to the Interest of the Protestant Religion, and the Sasety of England, than the so long Delay of the meeting of a Parliament after the Death of the King of Spain, yet I cannot agree to the latter Part of this Vote, which lays Imputations of unnecessary Delays to this House of Commons.

Peterborough.

The next Day the King came to the House of Peers, and Parliament put an End to the Session with a Speech, to be found in regued. CHANDLER'S Hist. Anno 13 W. III. 1701, Page 183.

And July the 1st embarked for Holland. A Fleet of Obfervation or Amusement was set forth this Summer, but per-

formed nothing.

September the 6th, died at St. Germains, the unfortunate King James King James, and his Son was immediately preclaim'd King dies, and his of England, by the Court of France; upon which notorious Son is proclaim'd by the Earl of Manchester took his Leave of Paris, and the French Resident here was order'd to depart the Kingdom:

About the same time the Grand Alliance was formed between The Grand Althe Emperor, the King of England, and the States of Holland. liance form'd.

Nov. the 4th, His Majesty landed in England, dissolved the Parliament dif-Parliament the 1th, and on the 31st of December, the Com- solv'd. mons having the Day before chose their Speaker, opened his

SIXTH

Aimo 13 Willi

SIXTH PARLIAMENT

ITH a Speech to both Houses, which see in Chandler's History, Anno 13 Will. III. 1701. which was answer'd first by a joint Address of both Lords and Commons, and then by each House apart: That of the Peers being as follows:

Lords Address.

E your Majesty's most loyal and dutiful Subjects, the Lords spiritual and temporal in Parliament affembled, are highly sensible of what we owe to Almighty God, for the great Deliverance he hath wrought for us by your Majesty. We are highly sensible of his Mercies in preserving you hitherto, in so many public and private Dangers to which your facred Person hath been exposed; and we hope the same Providence will carry your Majesty thro' the great Work (which seems reserved for you) the reducing the exorbitant Power of France, and maintaining the Balance of Europe.

All true Englishmen, fince the Decay of the Spanish Monarchy, have ever taken it for granted, that the Security of their Religion, Liberty and Property, that their Honour, their Wealth, and their Trade, depend chiefly upon the proper Measures to be taken from time to time in Parliament, against the growing Power of France: But it is their peculiar Bleffing in your Majesty's Reign, to have a Prince upon the Throne, who not only agrees with them in this Opinion, but who, in the frequent Parliaments assembled, is ever reminding them of this their greatest Concern; and who, to complete their Happiness, is always ready, with the Hazard of his Person, to support his Subjects and Allies against their common Enemy.

And we esteem it a further good Fortune, in this Time of public Danger, that the French King has taken those Measures, which will make it impossible for him to impose

any more upon the World, by Treaties so often violated:
Neither can be hope any longer to cover his ambitious Defigns, or justify his Usurpations under the specious Pre-

tences of Peace.

Your Majesty hath so justly represented the Danger to
which Europe is exposed, by the French King's placing his
Grandson on the Throne of Spain; your Majesty is so
justly sensible, that, under that Pretence, he is become abso-

lute Master of the whole Spanish Monarchy; and we are all so well apprized of the dangerous Consequence of this

bold Attempt, that we think it most proper to affure your Majesty

Majesty in your own Words, that we are under the highest Anno 14 Will.
Impatience, that speedy and effectual Measures may be III. 1701.
taken, against the undoubted Ambition of the French

· King.

n

g

24

ir

ly.

nè

at

to

th

a-

fs,

ort

me

ole

ofe

ed:

De-

r to

his

fo

plo.

are

this

out

efty

And as the placing his Grandson upon the Throne of Spain is visibly, to the whole World, the Cause of all those Dangers mentioned in your Majesty's Speech, and of the Breach of the Balance of Power in Europe, which the People of England are so deeply engaged to preserve; so we humbly conceive the Remedy is as apparent as the Disease; and that your Majesty, your Subjects and Allies, can never be safe and secure, till the House of Austria be restored to their Rights, and the Invader of the Spanish

' Monarchy brought to Reason.

'To, conclude, Sir, as we humbly addressed to your Majesty last Parliament, to enter into Alliances with the Emperor, the States of Holland, and all other Princes and
States, willing to unite against the Power of France; so we
take the Liberty at this time to assure you, we are all willing and zealous to lay hold of this Opportunity, which
the Blessing of God, and your Majesty's Care, have put
into our Fiands; resolving to make our utmost Efforts for
our own Security, and the Support of our Allies; desiring
of your Majesty to rest assured, that no time shall be lost,
nor any thing wanting on our Part, which may answer the
reasonable Expectations of our Friends Abroad; not
doubting but to support the Reputation of the English
Name, when engaged under so great a Prince, in the glorious Cause of maintaining the Liberty of Europe.'

His Majesty returned this Answer.

My Lords,

A M extremely pleased to find the just Sentiments you Kings Answers have of the present State of Affairs, and your Readiness to do your Part in this great Conjuncture. I hope our joint Endeavours will be successful for restoring the Basin lance of Enrope, and establishing our common Security."

February the 20th, Hodie 3ª vice lecta est Billa, entitled, Late King An Act to attaint Mary, late Wife of the late King James, James's Wife of High Treason,

The Question was put, Whether this Bill shall pass?
It was resolved in the Assirmative. Contents 28; Not

Contents 18.

Because there was no Proof of the Allegations in the Bill Protest thereon, fo much as offered, before the passing of it, which is a Precedent that may be of dangerous Consequence.

1701. F Winchelsea,

Anno 14 Will-III. 1701. Winchelsea, North and Grey, Bradford, Crawen, Guilford, Weymouth, Fewersham, Jeffreys, Plimouth, Scarsdale, Dartmouth, Stawell, De Longueville, Northampton, H. London.

Bill for the Security of his Majesty's Person.

The 24th, Hodie 3ª wice lease of Billa, entitled, An Act for the further Security of his Majesty's Person, and the Succession of the Crown in the Protestant Line, and for extinguishing the Hopes of the pretended Prince of Wales, and all other Pretenders, and their open and secret Abettors.

After Debate the Question was put, Whether this Bill,

with the Amendments, shall pass?

It was resolved in the Affirmative.

Diffentient'

Protest thereon.

1st, We conceive that no new Oath should be imposed upon the Subject, forasmuch as those established by an Act made in the first Year of the Reign of his Majesty and the late Queen Mary were, together with our Rights and Liberties, ascertained in that Act under the Terms of our Submission to his Majesty, and upon which his Majesty was pleased to accept the Crown; and which were enacted to stand, remain, and be the Law of this Realm for ever; and which, we conceive, do comprehend and necessarily imply all the Duty and Allegiance of the Subject to their lawful King.

2/y, And much less should any new Oath be imposed upon the Lords, with such a Penalty as to lose their Seats in Parliament, upon their resusing it; such a Penalty being, in some measure, an Intrenchment upon our Constitution, and expressy contrary to the standing Order of this House, made the

30th Day of April, 1675.

3dly, And if such an Infringment of the Rights of Peers might be admitted, yet, in a Matter of so great Importance to all the Peers, we conceive, that in Justice they should all have had Notice of this Matter, and specially summoned to have attended the House upon so great an Occasion; which has not been done, tho' it was moved and humbly desired on behalf of the absent Lords.

41bly, And if any further Evidence of the Subjects Fidelity twere, at this time, necessary to be required, we conceive a new Oath is no such Evidence, nor any additional Security to the Government; because those who have kept the Oaths, which they have already taken, ought in Justice to be esteemed good Subjects; and those, who have broken them, will make no Scruple of taking or breaking any others that shall be required of them: And consequently this new Oath may be of dangerous and pernicious Consequence to the Government, by admitting such ill Men, who do not fear an Oath,

into

into the greatest Trusts, and who, under the specious Pretence Anno 1 Anna, and Protection of this new Oath, which is to free them from 1701.

Suspicion, will have greater Opportunities of betraying their

King and their Country.

d,

H.

181

IC-

in-

all

ill,

up-

ade

ate

ies,

to ac-

un,

on-

dog

ar-

me

ex-

the

ers

nce

all

d to

nich

on

lity

re a

y to

ths

em-

will

hall

may

ern.

ath,

sthly, If a new Oath were necessary, as we conceive it is not, yet the Words of this Oath are so very ambiguous, and have been so very differently construed by several Lords who have declared their Sense of them, that this may become a Snare to Men's Consciences, or tend to overthrow the Obligation of an Oath, by allowing Men Liberty to take it in their own Sense; whereas this, as all other Oaths, ought to be taken in the Sense of the Imposer, which hath not been declared in this Case, tho' we earnestly pressed it, and tho' it has been done in other Cases of the like Nature.

6thly, And, we conceive, that it necessarily follows from hence, that this Oath can be no Bond of Union among those who do take it, nor any true Marks of Distinction between the Friends and the Enemies of this Government; and there-

fore repugnant to the very Nature of a Telt.

Winchelsea, Denbigh, Guilford, Craven, Weymouth, Plimouth, Nottingham, Scarsdale, Stawell, Jeffreys.

The first Reason of the above Protest, tho' ordered to be expunged, may be depended upon as a genuine Copy.

Two Days after this, the King was thrown from his Horse, Death of King and March the 8th departed this Life, in the fifty second William. Year of his Age and the sourteenth of his Reign. The Princess of Denmark was the same Day proclaimed, and Queen Anne the 11th made her first Speech to both Houses, which see proclaimed. in Chandler's Hist. Anno 1 Annæ 1701, Page 198.

In the following Month, her Majesty made great Alterations both in her Court and Ministry, by distributing her tions at Court. Favours among those who had appear'd most zealous for the Church and the Prerogative: Such as the Marquis of Normanby, the Earl of Northampton, the Earl of Northampton, Sir Edward Seymour, Sir John Lewison

Gower, &c.

May the 4th, Her Majesty declared War with France, which was left to the Conduct of the Earl of Marlborough, and the Treasury to the Lord Godolphin.

The 5th, the Lords presented the following Address:

E, your Majesty's most dutiful and loyal Subjects, Lords Address. the Lords Spiritual and Temporal in Parliament as-

fembled, do return your Majesty our most humble Thanks, for laying before us the Convention made by your Maje-

fly with the Emperor, and the States-General, in order to

1701.

Anno I Anna, a concurrent Declaration of War against France and Spain. and of your Royal Intention to declare the War accordingly; and beg leave to affure your Majesty, that we shall never be wanting to give your Majesty our utmost Assistance, in the profecuting fo just and necessary a War, on the good Success whereof, under God, the Welfare of these your Kingdoms, and the Liberties of Europe, do entirely dee pend.

> This Address was no less favourably received than gracioufly answered, as follows:

My Lords,

Queen's Anfwer.

Return you many Thanks for your Address, and the Affurances of your Support and Affiftance, which are " always very agreeable to me, and particularly upon this " Occasion."

The same Day came forth in print, by order of the House of Lords, the Resolution and Proceeding of their Lordships upon an Affair of great Moment. There was a scandalous Story raised, wherein, not only the late King, but her prefent Majesty also was traduced; viz. That the late King James did, before his Death, write a Letter to the Queen, wherein he charged her not to accept by any Means of the Crown, upon the Death of King William, but make way for the Succession of his pretended Son; and that the King having Notice hereof, and defiring to fee the Letter, the should refuse it; upon which, he should concert Measures for fetting her aside; and that Papers were found in his Closet to that Purpose: Wherefore, the Lords having made Enquiry into the Matter, and, as much as in them lay, to vindicate the Honour of their late Royal Sovereign, deceased, they came to this Resolution.

Lords Refolufalse Reports of the deceased King.

· That whereas their Lordships had been informed, that tions concerning there had been a Report spread abroad, that, among the late King's Papers, some Paper or Papers had been found, tending to the Prejudice of her present Majesty, or her Succesfion to the Crown; and the Lord Prefident, the Lord Steward, the Lord Chamberlain, the Earl of Marlborough, and the Earl of Albemarle, who were the Persons appointed by her Majesty to inspect the said Papers, having, at the Defire of the House, severally declared, that, amongst the late King's Papers, they did not fee or find any Paper or Papers, in the least tending to the Prejudice of her Majesty or her Succession to the Crown; or to her Prejudice in any respect whatfoever, or which might give any Ground or Colour for fuch Report: It is thereupon resolved by the Lords spiritual and temporal in Parliament assembled, that the said Report

is groundless, falle, villainous and scandalous, to the Dif- Anno : Anna, honour of the late King's Memory, and highly tending to

the Disservice of her present Majesty.

1

bo

ur

e-

ci-

he

ire

his

ule

ips

ous

re-

ing

en,

the

vay ing

fhe

for

ofet iry

cate

hey

that

late

end-

cef-

ew-

and

by

De-

late

ers,

her

pect

for

itual

port 15

It is ordered by the Lords spiritual and temporal in Parliament assembled, that the Matter of Fact aforesaid, and the Resolution of this House thereupon, be laid before her Majesty by his Grace the Duke of Bolton, the Earl Marshal. the Earl of Radnor, the Earl of Stamford, the Earl of Scarborough, and the Lord Ferrers: And that they do humbly defire her Majesty, from this House, that her Majesty will give Order to Mr. Attorney General to profecute, with the utmost Severity of Law, the Authors or Publishers of the above mentioned, or fuch like scandalous Reports.'

In pursuance of this Resolution, and Proceeding of their Lordships, the Duke of Bolton acquainted the House, that himself, and the other Lords, attended and presented their Lordships Resolution to her Majesty; in Answer thereunto.

fhe was graciously pleased to say:

" Am very ready to do any thing of this kind: I will Queen's Answer give Directions to Mr. Attorney-General, effectually " to profecute the Authors and Publishers of such falle Re-" ports."

Befides the above Censure, the Lords had under their Con- Proceedings fideration a Complaint made of a Passage in the Preface of in respect to a printed Book, entitled, The History of the last Parliament, the late Parliabegun at Westminfter in the Reign of King William, Anno ment. 1700. The Pattage was read to the House, and is as follows, viz. And perhaps, there was a third Thing in pro. spect of deeper Reach than all these; which was, that, should it have pleased God, for our Sins, to have snatched from us the King, on the sudden, by Chance of War, or other fatal Accident, during the Tumult of Arms Abroad, and the civil Diforders they had raifed among us at Home, and a numerous, corrupt, licentious Party throughout the Nation, from which the House of Commons was sometimes not free; they might entertain Hopes from the Advantage of being at the Helm, and the Affistance of their Rabble, to have put in practice their own Schemes, and to have given us a new Model of Government of their own Projection, and fo to have procured to themselves a lasting Impunity, and to have mounted their own Beast, the Rabble, and driven the sober Part of the Nation like Cattle before them.

That this is no groundless Conjecture, will readily appear to any confidering Persons, from the Treatment her Royal Highness the Princess of Denmark, the Heiress apparent to the Crown, met with all along from them and all

Anno I Annæ, their Party. They were not contented to shew her a constant Neglect and Slight themselves, but their whole Party were instructed not only to treat her with Difrespect, but Spite; they were busy to traduce her with false and scanda. lous Aspersions; and so far they carried the Affront, as to make her, at one time, the common Subject of the Tittle. tatt'e of almost every Coffee-House and Drawing-Room; which they promoted with as much Zeal, Application and Venom, as if a Bill of Exclusion had then been on the An-

vil, and these were the introductory Ceremonies.'

The Passage being thus read, it was thereupon ordered by the Lords spiritual and temporal in Parliament assembled, that Francis Coggan, Robert Gibson, and Thomas Hodg son, for whom the faid Book was mentioned to be printed, should, and were thereby required to attend that House, on the Saturday following at eleven o'Clock: But their Lordships, in the mean time, being informed, that Dr. Drake owned him. felf to be the Author of the Book, and that he defired he might be appointed to attend at the fame time: Thereupon it was ordered, that he should attend that House on Saturday, the fame Hour; when after reading the Order made the 6th, at the Defire of Dr. Drake, for his Attendance that Day, the House took into their Consideration the above-mentioned Paragraph. After the reading whereof, Dr. Drake was called in, and the Order being read to him, the Lord-Keeper asked him what he had to say concerning the said Book; and the Book and the faid Paragraph being shewed him, he owned he writ the Book, and that Paragraph in particular; and he thought he had just Reasons to write it, he having heard her Highness talked of difrespectfully in almost every Coffee-House. Then he withdrew: And after some Debate was called in again; and the Lord Keeper told him, the House was not satisfied with what he had faid, but though he trifled, and required him to acquaint the House with the Grounds of his writing that Paragraph. He answered, He found it mentioned in divers anonymous Pamphlets published at that Time, and hoped it was no Hurt to answer those Pamphlets, and defired Time to recollect what those Pamphlets were: And then withdrew.

After some time he was called again, and asked the sol

lowing Questions, viz.

If he could charge any Person or Persons in the Kingdom, with the Matters afferted by him in that Paragraph?

To which he answered, That he did not know any such Person.

7

Then he was asked, Whether he had heard any other Perfon fay, that they could charge any Person whatsoever with Matters contained in that Paragraph?

He faid, He did not know of any fuch Persons.

Being farther asked, If he had any other Grounds besides

the Pamphlets, and what these Pamphlets were?

He faid, He had no other Grounds besides the Pamphlets; and named the several Pamphlets following, as his Reason for writing the faid Paragraph, viz. The two Legion Letters; the Black Lift; the Jura Populi Anglicani; and Toland's Reasons for inviting over the Princess of Hanover. And being asked, If in any one of these Pamphlets there was any thing faid about fetting afide the present Queen? He answered, He did not remember there was.

Then, he being withdrawn, the faid Paragraph was taken into Confideration, and it was proposed to pass a Censure thereupon. And after Debate, this Question was put, That a Censure should be then put upon the said Paragraph? It

was resolved in the Affirmative.

rty

da-

to to

tle-

m;

and

An-

by

led,

for

uld, Sa.

im.

d he

pon

day, 6th,

the

oned

cal-

eper and he

lar;

ving

very ebate

the

ught

1 the , He

ifhed

thole

Pam-

e fol-

dom,

fuch

r Perwith

He

Then this Question was put, That in the Preface of the Book, entitled, The History of the last Parliament, begun at Wellminster the 10th Day of February, in the 12th Year of the Reign of King William, Anno Dom. 1700, there were feveral Expressions which were groundless, false, and scandalous, tending to create Jealousies in her Majesty of her People, and to cause great Misunderstandings, Fears, and Disputes amongst the Queen's Subjects, and to disturb the Peace and Quiet of the Kingdom.

It was resolved in the Affirmative, in these Words, ' It is Censure pass's resolved and declared by the Lords spiritual and temporal in thereon.

Parliament affembled, that in the Preface of a Book entitled, The History of the last Parliament, begun at Westminster the 10th Day of February, in the twelfth Year of the Reign of King William, Anno Domini 1700 (written by Dr. Drake, as he owned at the Bar, there are several Expressions, which are groundless, false, and scandalous, tending to create Jealousies in her Majesty of her People, and to cause great Misunderstandings, Fears, and Disputes amongst the Queen's Subjects, and to diffurb the Peace and Quiet of the Kingdom.' After which they ordered her Majesty's Attorney-General forthwith effectually to profecute the faid Doctor Drake, for having writ the faid Paragraph.

On the 12th of May, the Order being read for the Master Proceedings in and Wardens of the Stationers-Company, and John Nutt, to respect to Tom attend to give an Account of what they have done, in order Double. to find out the Author and Printers of the Book entitled, Tom Double, returned out of the Country: Or the true Picthre of a modern Whig, set out in a second Dialogue between Mr. Whiglove and Mr. Double, at the Rummer-Tavern in Queen-Street. They were called in, and Mr. Nutt faid, That

Anno I Anne.

1701.

Anno 1 Anne, That Mr. Barber, the Printer, gave him the Book to publish, and they withdrew. Then the House went into Confideration of the Paragraphs in the 89th and 90th Pages of the faid Book, which were read as followeth, viz.

> · Whiglove, I find we have miscarried in one great Defign, the Train would not take, we were very hot upon it just before the Parliament met, all the Whig Coffee-Houses rung how necessary it was to break into the Acts of Settlement. and to exclude.

> · Double. Mum, Whiglove, talk no more upon that Subject, I beseech you; fresh Orders are issued out, and since we are not strong enough to make it go, and that on the contrary, it has alarmed and provoked all forts of Men, we are now directed to fay, that never any fuch thing was intended by our Party, tho', God knows, it was the whole Difcourse of all our Clubs. Under the Rose, this was one of those Embrio's that proved abortive upon the 30th of December laft; but tho' it be not seasonable to ftir in it now, never fear our abandoning a wicked Defign; we never quite lay afide any Mischief; however, fince it has really opened the Eyes of a great many, and weakened our Interest among several of our own Side, whom, (with Grief of Mind I fpeak it) we cannot work up to be guilty of fo much Injustice, let us take all Occasions of declaring, that we will not violate these Acts upon any Account whatsoever; which we may the more fafely do, because you know it is our Principle, not to think that we are bound by any Protestations we make, either in private or in public; and it is one of the great Advantages we have over the rest of our Fellow-Subjects, and we can fetter the Consciences of others, while our own are at perfect Liberty.'

> Then it was proposed to pass the same Censure on these Passages, as was passed on Part of the Presace of Dr. Drake's Book.

> After Debate the Question was put, Whether the House should be then adjourned? It was resolved in the Negative. Then this Question was proposed, That in the Paragraphs which have been read, contained in the 89th and 90th Pages of the Book entitled, Tom Double returned out of the Country, &c. there were feveral Expressions, which were ground. less, false, and scandalous, tending to create Jealousies in her Majesty of her People, and to cause great Misunderstandings, Fears, and Disputes amongst the Queen's Subjects, and to disturb the Peace and Quiet of the Kingdom.

H H to P Ga

t

It

Then the Question was put, Whether the Words, groundless, false, and scandalous, should be lest out of the Question?

1702.

It was resolved in the Negative : After which the main Ques- Anno T Anne tion was put, That in the Paragraphs which had been read, as aforefaid, there were feveral Expressions which were groundless, false, and scandalous, tending to create Jealousies in her Protest thereon. Majesty of her People, and to cause great Misunderstandings, Fears, and Disputes amongst the Queen's Subjects, and to disturb the Peace and Quiet of the Kingdom. It was refolved in the Affirmative, in these Words; . It is resolved and declared by the Lords spiritual and temporal in Parliament asfembled, that in the Paragraphs which have been read, contained in the 89th and 90th Pages of the Book, entitled, Tom Double returned out of the Country: Or the true Picture of a modern Whig, fet forth in a second Dialogue between Mr. Whiglove and Mr. Double, at the Rummer Tavern in Censure pass'd Queen's-street, there are several Expressions which are ground-thereon. leis, false, and scandalous, tending to cause great Misunderstandings, Fears and Disputes amongst the Queen's Subjects. and to disturb the Peace and Quiet of the Kingdom.'

This being over, and Complaint being made to the House, Animadveron the 16th, of a Book entitled, Animadverfions upon the two fions upon Sera last 30th of January Sermons. One preached to the bonourable mons on the House of Commons: The other to the Lower House of Convoca. 30th of Janution. In a Letter. After reading and confidering the feveral Paragraphs and Places therein, and Debate thereupon; it was resolved and declared by their Lordships, that the Book or Pamphlet, aforesaid, was a malicious, villainous Libel, containing very many Reflections on King Charles I. of everbleffed Memory, and tending to the Subversion of the Monarchy: And thereupon it was ordered by the Lords spiritual and temporal in Parliament affembled, that the Pamphlet should be burnt by the Hands of the common Hangman at Order'd to be Westminster, on Friday, the 22d Day of this instant, between burn'd by the

the Hours of one and two of the Clock in the Afternoon of Hangman. the faid Day.

of

e-

ıft

g

ıt,

b-

ce

he

ve

n-

if-

of

m-

er

ay

he

ng I

uf.

oot

we

Ci-

we

he ıb-

our

efe

ke's

ufe

ve.

phs

ges

un-

nd.

her

gs,

to

nd-

n?

Iţ

Then the House took into their Consideration a Book, en- Dr Bincke's tituled, A Sermon preached on January the 30th, 1701, in King Sermon, Henry VII. Chapel, before the reverend Clergy of the Lower House of Convocation. By W. Binckes, D. D. a Proctor for tthe Diocess of Lichfield and Coventry. And some Parts or Paragraphs out of the ninth, tenth, and fifteenth Pages of the faid Book being read, as followeth, viz.

'And If, As to the near Resemblance between the Parties concerned, as well the Actors as the Sufferers, comparing

those in the Text with those of the Day.

' And here one would imagine, the latter were resolved to take St. Paul's Expression in the most literal Sense the Words will bear, and crucify to themselves the Lord afresh, 1702.

Anno I Anne. and in the nearest Likeness that could be, put him to an open Shame. If, with respect to the Dignity of the Person, to have been born King of the Jews, was what ought to have skreened our Saviour from Violence, here is also one, not only born to a Crown, but actually possessed of it. He was not only called King by some, and at the same time derided by others for being so called, but he was acknowledged by all to be a King; he was not just dressed up for an Hour or two in Purple Robes, and faluted with a Hail King, but the usual Ornaments of Majesty were his customary Apparel; his Subjects owned him to be their King, and yet they brought him before a Tribunal, they judged him, they condemned him; and that they might not be wanting in any thing to fet him at naught, they spit upon him, and treated him with the utmost Contempt. Our Saviour's declaring, that his Kingdom was not of this World, might look like a fort of Renunciation of his temporal Sovereignty, for the present desiring only to reign in the Hearts of Men; but here was nothing of this in the Case before us; here was an indisputable Right of Sovereignty, both by the Laws of God and Man; he was the reigning Prince, and the Lord's Anointed; and yet, in despight of all Law, both human and divine, he was by direct Force of Arms, and the most daring Methods, of a flagrant Rebellion and Violence, deprived at once of his imperial Crown and Life.

The Fact of this Day was such a vying with the first Arch-Rebel, the apostate Angel Lucifer: It was such a going beyond the old Serpent in his own way of Insolence and Pride, that it is no Wonder if he began to raise his Head, and fet up for Dominion in this World, when thus warmed and enlivened by a fiery Zeal in some, and Rage in others, to the degree of Drunkenness, thirsting after and satiating themselves in Royal Blood; and in which Respect only, heated to the degree of Phrenzy and Madness, the Plea in my Text may feem to have some hold of them. Father, forgive them, for they know not what to do."

After Debate thereupon, it being proposed to censure these Paragraphs, the House came to the following Resolution:

Censured.

· It was resolved and declared by the Lords spiritual and temporal in Parliament affembled, That in the Book entitled, A Sermon preached on January the 30th, 1701, in King Henry VII. Chapel, before the reverend Clergy of the Lower House of Convocation, by W. Binckes, D. D. a Prostor for the Diocess of Litchfield and Coventry; there are several Exprestions that give just Scandal and Offence to all Christian People." Then

Then it being proposed to burn the Sermon; it was resolv-Anno T Annæ; ed in the Negative: But at the same time their Lordships ordered, That the Resolution above-recited, should be communicated to the Lord Bishop of Litchfield and Coventry, his Ordinary, whom they lest to censure him as he thought sit,

according to the Rules of those Courts.

In the next place, Complaint being made to the House, of As also a Book two Passages in the Pamphlet, entitled, I. Reasons for ad about inviting dressing his Majesty to invite into England their Highnesses the over the Electoress Dowager, and the Electoral Prince of Hanover.

And likewise 2. Reasons for attainting and abjuring the pretended Prince of Wales, and all others pretending any Claim, Right or Title from the late King James and Queen Mary, with Arguments for making a vigorous War against France.

The Passages were read to the House, and are as followeth, (viz.)

It appears from History, that all free People have set aside the Children of Tyrants, for Reasons of external and universal Force, as inheriting the Principles and Designs of their Parents, bearing an Affection to their Friends, and owing a Revenge to their Enemies; as more likely to grasp at a greater Power than even their Parents, the better to secure themselves from their Disgrace, and being under extraordinary Obligations to those foreign Potentates, who pro-

tected or restored them.

'In fine, whether Abjuration be penal or voluntary, (for I cannot doubt of one or the other) I hope Care will be taken that it be tendered, as I said before, to all manner of Persons, not excepting the King's Majesty, or her Royal Highness the Princess of Denmark. For all the Securities we give to them, they owe this Security to us. Not that I doubt either of them, from which I am the farthest of any Man in the World; but they both of them very well know, what Stories and Surmises our Enemies have been actually spreading to amuse and intimidate the People: They have whispered horrible Things of blind and clandestine Bargains; but Casar's Wife ought to be unsuspected, as well as innocent.'

After which, it was resolved and declared by the Lords spiritual and temporal in Parliament assembled, that there were in that Pamphlet Assertions and Institutions, scandalous and dangerous, tending to alienate the Assertions of the Subjects of this Kingdom from her Majesty, and to disturb the Peace and Quiet of the Kingdom.

The 24th, The Queen put an End to the Session with a Speech, which see in CHANDLER's Hist. Anno 1 Annæ, 1702,

Page 202.

The

G 2

wo ual ubim ind

to

oct

led

all

at utlom

of ght

vas in di-

flape-

first ing and

ad, ned ers,

ing ily,

ire

eloand

nti-King

the

refle.' hen Anno I Anna,

Exploits

The Campaign this Summer was open'd fuccessfully by the taking of Keyserwaert by the Earl of Athlone; and, foon after, the Earl of Marlhorough, having the chief Command of both English and Dutch, obliged the French to abandon Spanish Guelderland: After which he laid Siege to Venlo, and, Fort St. Michael having been taken, Sword-in-hand, by Lord Cutts, made himself Master of the Place. Ruremond and Stevenswaert shared the same Fate; and, with the Submission of Leige and its Citadel, ended the Campaign.

The unsuccessful Attack of Cadia, under the Duke of Ormond and Sir George Rook, and the taking and destroying the Spanish Galleons, and French Fleet at Vigo, were the Sum of

our Exploits at Sea.

July the 2d, the late Parliament had been diffolved: And Officer the 20th.

The First Parliament of Queen ANNE

Lords Address.

SSEMBLED at Westminister, and having chose their Speaker, her Majesty, the next Day, made a Speech, as usual, to both Houses, to be found in Chandler's History, Anno 1 Annæ, 1702, Page 203; in Answer to which, the 22d, the Lords returned the following Address:

Address of

E, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament as sembled, do, with all dutiful Acknowledgments, return your Majesty our most humble Thanks for your gracious Speech to both Houses of Parliament; and take Leave on this Occasion to congratulate the prosperous and glorious Success with which it hath pleased God to bless your Majesty's Arms, in conjunction with your Allies, under the

* Command of the Earl of Marlborough; as also for the other Successes of your Majesty's Allies in Germany and Italy; and for the prosperous Condition the Trade of the

Nation is now in; which we acknowledge is chiefly owing to your Majesty's great Wisdom and Conduct. We humbly take Leave to assure your Majesty, that we shall

always be ready to affift you to our utmost in the Profe-

cution of this just and necessary War.

We likewise return your Majesty our most humble Thanks for the Resolution you are pleased to express, to maintain and defend the Church as by Law established:

[•] He was afterwards made one of the Lords Justices of Ireland, where he is faid to have died of a broken Heart, Jan. 26, 1705-6: The Cause, his being sent thither out of the Way of Action.

and to protect us in the full Enjoyment of our Rights and Anno I Anne Liberties : And we farther presume to assure your Majesty, that we shall be ready, on all Occasions, to support and defend your Royal Person ad Government, with all possible Zeal and Duty.'

To which her Majesty returned an Answer, as follows:

My Lords,

4 d

n.

.

of

be

fe

2

in

n-

ng

af-

rn us

on

ous

a.

he

he

nd

he

W-

Ve

all

fe-

ble

to

ed:

nd

ufe,

OUR Address is very acceptable to me: I thank Queen's Answer. you kindly for your Congratulations; and I hope, vou will have frequent Occasions of renewing them."

Dr. Lloyd, the Bishop of Worcester, having incurr'd the Displeasure of the Commons (see CHANDLER's History, Anno Annæ, 1702, Page 204.) who had address'd the Queen to remove his Lordship from being her Almoner, the Lords presented a Counter-Address on that Occasion, as follows:

W E, your Majesty's most dutiful and loyal Subjects, Lords Address E, your Majetty's most dutiful and loyal Subjects, to the Queen the Lords Spiritual and Temporal in Parliament affembled, humbly take leave to represent to your Majesty, of Worcester. that it is the undoubted Right of every Lord of Parliament, and of every other Subject of England, to have an Opportunity of making his Defence, before he fuffer any fort of Punishment: And therefore humbly defire your Majesty, that you will be pleased not to remove the Lord Bishop of Worcester from the Place of Lord Almoner, nor to shew any Mark of your Displeasure towards him, till he be found guilty of some Crime by due Course of Law.'

To which her Majesty was pleased to return the following Answer:

Agree, that every Peer and Lord of Parliament, and, Queen's Answer indeed, every other Person, ought to have an Op. thereto. portunity of being heard to any Matters objected against him, before he be punished.

" I have not received any Complaint of the Bishop of Worcester; but I look upon it as my undoubted Right, to continue or displace any Servant attending upon my own Person, when I shall think it proper."

Their Lordships having received this Answer, resolved, Their Vote nemine contradicente, that no Lord of their House ought to thereon. luffer any fort of Punishment, by any Proceedings of the House of Commons, otherwise than according to the known and antient Rules and Methods of Parliament.

Clause, touching January the 19th, Upon Report from the Committee of the Prince of he whole House on the Bill to enable her Majesty to settle a Denmark's Ca-Revenue upon the Prince of Denmark, in case he survived be left out of

her, the Bill.

Anno r Anna. her, that they had gone thro' the Bill, and left out one Clause which enacted, that in case of the Prince's surviving, he might be capable to be of the Privy-Council, a Member of this House, to enjoy any Office, the Grants herein mentioned, or any other, notwithstanding the Act of Succession in the 12th of the late King.

And the Question being put, Whether to agree with the

Committee in leaving out this Clause?

It was refolved in the Negative.

Di Mentient'

Protest thereon.

If. We do dissent from this Clause, because, we conceive, this is a Bill of Aid and Supply; and that this Clause is altogether foreign to, and different from the Matter of the faid Bill; and that the passing of such a Clause is therefore unparliamentary, and tends to the Destruction of the Constitution of this Government.

adly. Because, we conceive, that a Parliamentary Expedient might have been found, whereby his Royal Highnes might, by an unanimous Confent, have all the Advantage defigned him by this Bill, without the Lords being obliged to depart from what we conceive to be their undoubted

Right.

adly, Because, we conceive, that this Clause was not necesfary to enable his Royal Highness to enjoy the Benefit of

the faid Grants.

4thly, Because, that this Clause, which pretends to capaci tate his Royal Highness to enjoy his Peerage, notwithstand ing the Act for the further Limitation of the Crown, and better fecuring the Rights and Liberties of the Subject, and which makes no Provision for other Peers under the same Circumstances, we conceive, may tend much to their Preju dice.

Torrington, Say and Seal, Somers, Portland, Manchesta, King fon, Jo. Litch. and Coven. Offulftone.

Protestation against the Clauses relating to the Grants.

We diffent from the Clauses relating to the Grants.

1 ft. Because the said Grants are not laid before the House (tho' defired) by which we are ignorant upon what Confide

ration the same were granted.

adly, Because, we conceive, that the saving Clauses are is far from having any relation to his Royal Highness, that they fignify any thing (without any respect to him) the prefer their Payment before his.

Somerset, Devonshire, Tho. Cantuar. Huntingdon, Say and Seal, W. Worcester, Rich. Petriburg', Gi. Sarum, Radnor, Jo. Chichester, Jo. Bangor, Sunderland, Oxford

Bolton, Mobun, Bergevenny, Berkeley of Stratton, To. Anne & Anne. Litch, and Coven. Rivers, Lovelace, Townshend, Herbert. Carlifle, E. M. Tho. Warton, Effex, Poulet, Rocking- L bam. Stamford.

January the 22d, After hearing Council upon the Petition Squire and of Robert Squire, Esq; and John Thompson, in relation to an Petition, re-Appeal of the Right Honourable Thomas Lord Wharton, lating to Lord nd the Answer of his Lordship to the said Petition, and De- Wharton's ate thereupon,

Appeal, dif-

The Question was put, Whether the Petition of Robert mis'd. Squire and John Thompson shall be dismissed, and they or-

dered to answer the said Appeal?

It was refolved in the Affirmative.

Diffentient'

nie

he

of

en.

in

the

ve,

is

the

fore

afti-

pe-

nes

ges

ged

oted

ecef.

it of

oaci.

and.

and

and

ame

reju

fter,

oufe

fide

re fo

at if

they

and Rad-

ford,

olton,

.

First, Because we conceive, that by this, we assume a Ju- Protest thereon

risdiction in an original Cause, for these Reasons:

1 ft, Because there has been no Suit between the Parties in he Exchequer, and consequently this Petition cannot be alled an Appeal from that Court.

2dly, Altho' there was a Suit in the Court of Chancery. et one of the Persons required to answer was not a Party in hat Suit; and therefore, as to him, at least, it must be an original Cause.

3dly, Tho' all had been Parties in the Chancery, yet it never was heard that an Appeal lay from one Court that had no Suit depending in it, because there was a Suit depending in

nother Court.

Secondly, Because no Court can take any Cognizance of a Cause, in which that Court cannot make an Order; but in his Case, the House of Lords cannot make an Order, beause very many are concerned in this Record, who are not before this House; therefore this House cannot take any Cognizance of it.

Leeds, Townsend, Nottingham, Will. Carlil', Weymouth, N. Duresme, Tho. Roffen', Poulet, Rochester, Dartmouth,

Jonat. Exon'.

February the 22d, Kodie 2ª vice letta eft Billa, entitled, Bill for qualify-An Act for providing, that no Persons shall be chose Mem-ing Members of pers of the House of Commons but such as have sufficient Commons. Real Estates.

the House of

Then a Debate arising, Whether this Bill shall be com-

The Question was put, Whether this Bill shall be committed ?

It was resolved in the Negative. Contents 32, Proxies 7; in all 39: Not Contents 36, Proxies 10; in all 46.

Diffentient

Anno 1 Anne,

Diffentient'

Protest thereon.

Because the Defign of that Bill was for hindering of Foreigners, and Men of little or no Estate, from being capable of taxing and disposing the Rights and Estates of all England, and might have received any reasonable Alterations at a Committee, which should have been judged convenient.

De Longueville, Cholmondeley, Weymouth, Stawell, Ph. mouth, Sandwich, Carnarvon, Scarfdale, Warrington, Lindsey, G.C. Dartmouth, Lempster, * Barnard, Nottingham, Townshend, Normanby, C. P. C. Denbigh, Kent, Poulet, Abingdon.

The grand Controversy between the two Houses, relating to the Occasional † Conformity-Bill, was the next Affair of Moment that occurr'd; which is to be found entire in Chandler's Hist. Anno 1 Annæ, 1702, P. 211, &c. as likewise the several Conferences on the Report of the Commissioners of Public Accounts, Page 247, &c. the Substance of which, as far as relates to the Conduct of the Lords, was laid before her Majesty, together with the following Address:

May it please your Majesty,

Address, occafoned by the Report of the Commissioners of Accounts.

- E, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament af
- fembled, having received from the Commissioners for taking, examining and stating the public Accounts of the Kingdom, in pursuance of an Act of Parliament, a Book
- Christopher Vane, of Raby-Castle, Esq; made Lord Barnard of Barnard-Castle, July the 8th, 1699.

On which Occasion we find the following Protest.

Die Mercurii 24º Februarii, 1702.

A long Report was made from the Committee appointed to draw what was offered at the free Conference, upon the Bill for preventing Occasional Conformity.

And it being proposed to print this Report, and the said Bill, with the Amendments made by the Lords, and their Proceedings thereupon,

The Question was put, Whether the Bill entitled, An Act for preventing Occasional Conformity, and the Amendments made by the Lords with the said Bill, and their Reasons for those Amendments; and the Commons Reasons, and the Report of the free Conference thereupon, shall be printed and published?

It was refolved in the Affirmative.

Diffentient'

Because the printing of Bills, and the Proceedings on Bills, was never

done, and therefore is unparliamentary.

'Tis an appealing to the People, and giving them a Pretence of Right to examine and judge of the Parliament, which otherwise would be unlawful; and this Practice may be of pernicious Consequence to the Peace of the Kingdom, and highly derogatory to the Honour and Dignity of the House of Lords.

Lindsey, G. C. Nottingham, Sandwich, Dartmouth, Denbigh, Weg-

F

of Accounts, together with feveral Observations made by Anno 2 Anne, them, thought it incumbent on us, out of our Duty to your 1703.

Majesty, and our Zeal for the Public, to have them carefully looked into and examined; and having made some

Remarks, and come to some Resolutions thereupon, which we hope may be of Service to your Majesty, and of public

Advantage to the Nation, we take the Liberty to lay these

our Proceedings before your Majesty, humbly desiring that your Majesty will be graciously pleased to take the same

'into your royal Consideration, and give such Directions therein, as your Majesty, in your great Wisdom, shall think fit.'

To which her Majesty made this Answer.

1

15

t.

n,

nt.

iti

of

D-

ife

ers

25

910

As,

af-

zk.

the

ook

of

d of

w up

nting

h the

vent-

rds to

Com-

fhall

neva

Right be un-

Peace

nity of

Wey.

" HAT her Majesty would take the whole Matter Queen's And into her Consideration."

But nevertheless, put an End to the Session, February the 27th, with a Speech; which see in Chandler's Hist. Anno 2 Annæ 1702, Page 277.

In the Interval between the Sessions, the Duke of Marlbo-Affairs Abroads rough passed over into Flanders, and opened the Campaign with the Siege of Bonne; which capitulated in ten Days. Soon after which Boufflers having been detached from Marshal Villeroy's Army, to surprize the Dutch Forces under Opdam, at Echeren, his Grace was thought to have committed an Oversight, in not having attacked Villeroy, while thus weakened on one Side, or supported Opdam, who was overpowered on the other. He afterwards took Huy, Limbourg, and Guelder, which were the whole of his Exploits during this Campaign.

In this Interval, likewise, the Foundation of the subsequent War in Spain being laid, a grand Design of King William's, to make certain important Acquisitions in the Bay of Mexico, was laid aside, for sear of giving Ossence to the Spanish Nation; and the King of Portugal was courted into the grand Alliance, on the most extravagant Terms. And as to our Conduct at Sea, Sir George Rooke was indeed sent to Sea with a Squadron, but with such Orders as amounted to no more

than to go out and come Home.

A correct List of the Lords Spiritual and Temporal of the Parliament, which met at Westminster (by Prorogation) the 9th of November, 1703.

HE Right Honourable Sir Nathan Wrighte, Knight, Lord-Keeper of the Great-Seal of England, Speaker. Prince George of Denmark, Duke of Cumberland, Lord High-Admiral of England, &c.

1703.

H

Sidney

Anno 2 Annæ, 1703. Sidney Godolphin, Lord Godolphin, Lord High-Treasurer.
Thomas Herbert, Earl of Pembroke and Montgomery, Lord
President of the Council.

John Sheffield, Duke of Buckingham and Normanby, Lord

Privy Seal.

William Cavendish, Duke of Devonshire, Lord Steward of the Houshold.

† Thomas Howard, Duke of Norfolk, Hereditary Earl. Marshal of England.

Charles Seymour, Duke of Somerfet. Charles Lenos, Duke of Richmond. Charles Fitz Roy, Duke of Southampton. * Charles Fitz-Roy, Duke of Grafton. Fames Butler, Duke of Ormond. Henry Somerset, Duke of Beaufort. George Fitz-Roy, Duke of Northumberland. Charles Beauclair, Duke of St. Albans, James Fitz James, Duke of Berwick. Outlawed. Charles Paulet, Duke of Bolton. Meinhard Schomberg, Duke of Schomberg. Charles Talbot, Duke of Shrewfury. Thomas Osborne, Duke of Leeds. Wriothesley Russel, Duke of Bedford. John Hollis, Duke of Newcastle. John Churchill, Duke of Marlborough. John Manners, Duke of Rutland.

MARQUIS.

William Herbert, Marquis of Powys. Outlawed.

EARLS.

Robert Bertie, Earl of Lindsey, Lord Great-Chamberlain

of England.

Charles Howard, Earl of Carlisse, Earl-Marshal of England, during the Minority of Thomas, Duke of Norfolk, Hereditary Earl-Marshal of England.

Edward Villiers, Earl of Jersey, Lord Chamberlain of

the Houshold.

Henry Grey, Earl of Kent.

James Stanley, Earl of Derby.

George Hastings, Earl of Huntington.

*Henry Clinton, Earl of Lincoln.

Henry Howard, Earl of Suffolk.

Charles Sackwille, Earl of Dorset and Middlesex.

*James Cecil, Earl of Exeter.

Scroop Egerton, Earl of Bridgwater.

Philip Sidney, Earl of Leicester.

George Compton, Earl of Northampton.

*Edward

*Edward Henry Rich, Earl of Warwiek and Holland. Basil Fielding, Earl of Denbigh. Powlet St. John, Earl of Bolingbroke. *Thomas Fane, Earl of Westmoreland. Charles Montagu, Earl of Manchester. Thomas Howard, Earl of Berkshire. Richard Savage, Earl Rivers. Charles Mordaunt, Earl of Peterborow and Monmouth. Thomas Grey, Earl of Stamford. Charles Finch, Earl of Winchelfea. Evelyn Pierrepoint, Earl of Kingfton. Charles Dormer, Earl of Carnarvon. Philip Stanhope, Earl of Chesterfield. Thomas Tufton, Earl of Thanet. Charles Spencer, Earl of Sunderland. Robert Leke, Earl of Scarsdale. Edward Montagu, Earl of Sandwich. Henry Hyde, Earl of Clarendon. Algernon Capell, Earl of Effex. +George Brudenell, Earl of Cardigan. John Annesley, Earl of Anglesey. *William-Henry Granville, Earl of Bath. Thomas Bruce, Earl of Ailesbury. Extra Regnum. Charles Boyle, Earl of Burlington. Anthony-Ashley Cooper, Earl of Shaftsbury. Edward-Henry Lee, Earl of Litchfield. Thomas Lennard, Earl of Suffex. Lewis de Duras, Earl of Feversbam. Charles Bodvile Roberts, Earl of Radnor. William Paston, Earl of Yarmouth. Charles Berkeley, Earl of Berkeley. Daniel Finch, Earl of Nottingham. Laurence Hyde, Earl of Rochester. Montague-Venables Bertie, Earl of Abingdon. *Baptist Noel, Earl of Gainsborough. Robert D'arcy, Earl of Holderness. * Other Windsor, Earl of Plymouth. +Edward Radclyffe, Earl of Derwentwater. Henry-Stafford Howard, Earl of Stafford. William Bentinck, Earl of Portland. Raiph Montagu, Earl of Montagu. Arthur Herbert, Earl of Torrington. Richard Lumley, Earl of Scarborough. George Booth, Earl of Warrington. Francis Newport, Earl of Bradford. Henry Sidney, Earl of Romney.

of

rl

and,

edi-

1 of

vard

Anno 2 Annæ, 1703.

William Zulestein, Earl of Rochford. H 2 Anno 2 Anna,

Arnold-Joust wan Keppell, Earl of Albemaria.
Thomas Coventry, Earl of Coventry.
Edward Russel, Earl of Orford.
Henry d' Auverquerque, Earl of Grantham.

VISCOUNTS.

Price Dewereux, Viscount Hereford.

† Francis Brown, Viscount Montacute.
Nathaniel Fiennes, Viscount Say and Seat.

† Thomas Belasyse, Viscount Falconberg.
Charles Townshend, Viscount Townshend,
Thomas Thynne, Viscount Weymouth.
Christopher Hatton, Viscount Hatton.
Henry Yelverton, Viscount Longueville.

* Richard Lowther, Viscount Lonsdale.

BARONS.

George Nevill, Lord Bergevenny. * James Touchet, Lord Audley. John West, Lord De La Warr. Robert Shirley, Lord Ferrers. Charles Mildmay, Lord Fitz-walter. * Edward Ward, Lord Dudley and Ward. + Edward Stourton, Lord Stourton. Richard Verney, Lord Willoughby of Broke. Ralph Eure, Lord Eure. Thomas Wharton, Lord Wharton. Hugh Willoughby, Lord Willoughby of Parham. William Paget, Lord Paget. Thomas Howard, Lord Howard of Effingham. William North, Lord North and Grey of Rolleston. James Brydges, Lord Chandos. + William Cary, Lord Hunsdon. + Thomas Petre, Lord Petre. Extra Regnum. + Charles Gerard, Lord Gerard of Gerard's Bromler. + Thomas Arundell, Lord Arundel of Wardour. + Henry Roper, Lord Tenbam. Foulk Greville, Lord Brooke. Ralph Gray, Lord Gray. John Lovelace, Lord Lovelace. John Poulet, Lord Poulet. Banaster Maynard, Lord Maynard. Charles Howard, Lord Howard of Eferick. Charles Mohun, Lord Mohun. Thomas Wentworth, Lord Raby. Thomas Leigh, Lord Leigh. + Henry Jermyn, Lord Jermyn and Lord Dover. William Byron, Lord Byron.

John Vaughan, Lord Vaughan.

† Charles Smith, Lord Carrington.

William Widdrington, Lord Widdrington.

John Culpeper, Lord Culpeper.

Robert Lucas, Lord Lucas.

Lewis Watson, Lord Rockingham.

Robert Sutton, Lord Lexington.

† Marmaduke Langdale, Lord Langdale.

William Berkeley. Lord Berkeley of Stratton.

Charles Cornswallis. Lord Cornwallis.

Charles Cornwallis, Lord Cornwallis.

Dr. Nathaniel Crew, Lord Crew and Lord Bishop of

Durham. John Arundel, Lord Arundel of Treryfe. William Craven, Lord Craven. + Hugh Clifford, Lord Clifford. Peregrine Ofborn, Lord Ofborn, John Carteret, Lord Carteret. Charles Bennet, Lord Offulftone. William Legge, Lord Dartmouth. William Stawell, Lord Stawell. Francis North, Lord Guilford + Fames Waldegrave, Lord Waldegrave. Edward Griffin, Lord Griffin. Outlaw'd. Hugh Cholmondeley, Lord Cholmondeley. John Ashburnham, Lord Ashburnham. Wiliam Farmer, Lord Lempster. Charles Butler, Lord (Butler of) Weston. Henry Herbert, Lord Herbert. John Thompson, Lord Haversham. John Somers. Lord Somers. Christopher Vane, Lord Barnard. Charles Montagu, Lord Hallifax. John Granville, Lord Granville. Heneage Finch, Lord Guernsey. 1 John-Levelon Gower, Lord Gower. Francis Seymour Conway, Lord Conway. Tobn Hervey, Lord Hervey.

Note, Those mark'd † are Roman Catholic, and those with * prefix'd, are all under Age. The last Five † created by Queen Anne, and Lord Hervey at the Instance of the then reigning Favourite, Sarah Duchess of Marlborough.

ARCHBISHOPS and BISHOPS.

Dr. Thomas Tennison, Lord Archbishop of Canterbury.

Dr. John Sharp, Lord Archbishop of York. Dr. Henry Compton, Lord Bishop of London.

obit

Dr. Nathaniel Crewe, Lord Bishop of Durham, and Lord Crewe.

Dr.

Anno 2 Anna,

nno 2 Annæ .

Dr. Peter Mew, Lord Bishop of Winchester.

Dr. William Beaw, Lord Bishop of Landaff.

Dr. William Lloyd, Lord Bishop of Worcester. Dr. Thomas Sprat, Lord Bishop of Rochester.

Sir Jonathan Trelawny, Bart. D. D. Lord Bishop of Exeter.

Dr. Gilbert Burnet, Lord Bishop of Salisbury.

Dr. Humphrey Humphreys, Lord Bishop of Hereford. Dr. Nicholas Stratford, Lord Bishop of Chester.

Dr. Symon Patrick, Lord Bishop of Ely.

Dr. John Hough, Lord Bishop of Coventry and Litchfield.

Dr. John Moore, Lord Bishop of Norwich.

Dr. Richard Cumberland, Lord Bishop of Peterborough.

Dr. Edward Fowler, Lord Bishop of Gloucester.

Dr. John Hall, Lord Bishop of Bristol.

Dr. James Gardner, Lord Bishop of Lincoln.

Dr John Williams, Lord Bishop of Chichester.

Dr. William Talbot, Lord Bishop of Oxford. Dr. John Evans, Lord Bishop of Bangor.

Dr. William Nicolson, Lord Bishop of Carlisle.

Dr. George Hooper, Lord Bishop of Bath and Wells. Dr. William Beveridge, Lord Bishop of St. Asaph.

The SECOND SESSION of the First Parliament of Queen ANNE

'AS open'd by her Majesty, November the 9th, with a Speech, to be found in CHANDLER's Hift. Anno 2 Anne, 1703, Page 268; and to which, on the 12th, the Lords, in their Address, reply'd as follows:

Lords Address.

E your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, do offer up our hearty Acknowledgments to Al-' mighty God for the Preservation of your Royal Person, so ' effential to the Happiness of your People, and the Safety of Europe.

We fee, with the greatest Satisfaction, the Zeal with which your Majesty espouses the public Interest, which ' carries you even beyond the Obligations of your Treaties,

' in Defence of the House of Austria, against all the Usur-' pations of the House of Bourbon, and the glorious Restora-

' tion of that Family to the Monarchy of Spain; which we have great Reason to expect, from the late Alliance with

the King of Portugal, will be chiefly owing to your Ma-

' jefty's Arms and Affiftance.

Wour

the Love of your People. Our Persons and Fortunes shall ever be ready to desend you upon all Occasions, and your Majesty may therefore, with the greater Sasety and Glory, send your Fleets and Armies Abroad in the Desence of your Allies.

The happy Declaration of the Duke of Savoy for the common Interest gives your Majesty a favourable Opportunity to shew your Compassion and Concern for those Protestants in the South of France, who lie under the heaviest

Persecution and Oppression.

We lament for ourselves, and others, the unavoidable Expence of War, but have Reason to thank God, and your Majesty, that we are free from all the other Calamities of it, having almost nothing else to wish for, (being secured of a Protestant Succession) but your long and happy Reign over us: And we shall most willingly pay our Proportion of Taxes, encouraged by your royal Generosity for the Ease of your People, and by the frugal Management of what is given; being sensible there is no better way to save the Wealth of the Nation, than by carrying on the War at this Time with the utmost Vigour. Your Majesty may expect from us a most ready Compliance with all your Desires, so justly merited by your Care of the general Welfare and Happiness of your People, extended even to the poorest and meanest of your Subjects.

'This appears yet more eminently, in that earnest and pressing Recommendation to your Parliament, of Union and Peace among themselves: And we in the most solemn manner assure your Majesty, that we will not only avoid, but oppose whatever may tend to create any Disquiet or

Diffention among your Subjects.

We shall never be wanting in any Part of our Duty, towards the supporting your Majesty's Honour, and your Allies, not doubting but Almighty God will prosper your Majesty's Arms, so gloriously employed to protect all those whom the Ambition of the French King would oppress.

To which her Majesty returned:

My Lords,

h

20

10

n-

fo

ty

th

ch

r-

ve

th

2-

A M extremely sensible of the particular Concern you Queen's Antexpress for me in this Address, and of your great Zeal swer. for the common Cause of Europe: I rely very much upon the Assurance you give me of your Duty and Affection, and shall use my best Endeavours to establish the Sasety and Happiness of the Kingdom."

Anno 2 Anna, 1703.

Bill was again fent up to the Lords, where it occasioned the following Debate:

My Lords,

Occasional Conformity-Bill brought in. Debate thereon. Bishop of Salisbury.

this Matter has raised abroad, yet none of that has appeared in all this Debate: If a Heat of Zeal has appeared in some, yet nothing has been mixed with it unbecoming the Dignity of this House, and the Solemnity of a great Council: It is a Disadvantage, especially to one of this Bench, to speak against any thing, that, in the Sound, and first Appearance, seems to be intended for the Service of the Church; and, I am sure, if I were not fully convinced that it is not so, but that, how well soever it may be intended by some, the Effects of it will be quite contrary, I could not have a Heart, or a Face to speak against it, but should pro-

mote it with all possible Zeal.

I confess, I am already bound up, as to this Particular, and determined by a Promise solemnly made to the Queen. Her Majesty recommended Union to us, with a particular Vehemence of Style, when she said, she wanted Words to express how earnestly she desired to see Union and a good Agreement among her Subjects. I am sure, we must all want Words to express a due Sense of that Royal Tenderness and Care of us. In our Address to her Majesty we promised, not only to avoid, but to oppose every thing that might tend to create Disunion and Disorder: And I do freely own, that I had then this very Thing in my Thoughts, a I belive a great many others had, and therefore I look of myself as under an Obligation now, to perform what I the promised.

' I know, some of our Order, as well as myself, in particular, have been very indecently, and I hope, very unjust ly too, treated in many printed Libels upon this very Ac count; as if we were the Enemies to the Church, because we cannot think this Bill for its Service. The Station w are in fets us above the answering every spiteful Write. But, next to the Queen, we owe it to your Lordships to be tisfy you, if any thing flicks with you. We hope we may appeal to the World, and to our Dioceses in every partice lar, whether our Labours do not shew a true Zeal for the Church, in all its Concerns? We are the Disciples of the Cross, and must go through good Report, and ill Report but, we hope, we are so well known, and have acted long in a public Scene, and have acted fuch a Part on it that we may reckon ourselves above such Calumnies. Eve ver

ap.

ing

real

this

and

the

hat

ded

not

oro.

lar,

een,

ular

s to

ood all

der-

we

that

eely

, 25

the

par just

Ac

auk

W

iter.

0 12

may

the the

orti

d f

n it,

Eve

1703.

Even St. Paul faid, he became a Fool in glorying, but Anno & Anna, it was when others compelled him to it : We must freely own, that there have been fuch Severities among us in every Reign, fince the Reformation, that these are Blemishes not eafily wiped off. The Burnings in King Edward's Reign is the Reproach of that Time. The capital Proceedings in Queen Elizabeth's Reign, and the severe Act of the 25th Year of it, that punishes Meetings with Imprisonment, Banishment and Death, is a Blemish, even on that long and glorious Reign. The Repeal of that Act past in both Houses; and it is known by what Management it was, that it was not tendered to the Royal Affent. The mention of Queen Elizabeth's Reign leads me to take notice of what has been faid in relation to the Maxims, by which she governed herself, as if the had been inflexibly steady in the Observation of the Laws in Matters of Religion. It is certain, that she treated the Papists, all along, with very particular Indulgence; she would have the Peers excused from the Obligation to take the Oath of Supremacy; the employed Papitts in all her Affairs; they were Privy-Councillors, and Lord Lieutenants; her Lord-Treasurer protested against all Acts for the Reformation, and was known to be a Church-Papist, or an Occasional Conformist; and yet he continued in that great Post 14 Years, till he died; she encouraged the Occasional Conformity of Papists, and apprehended no Danger in that, even from them; and yet, I hope, it will be acknowledged that there was more Reason to be afraid of them, considering both their Numbers, and the Hopes of a Popish Succesfor, than we have now to be afraid of the Diffenters. She encouraged Occasional Conformity, and no Body was uneasy at it; but the Pope faw what it was like to end in, and therefore he took Care to put a Stop to it.

The Severities in King James's Reign cast a Blot on it; and the Proceedings in the Star-Chamber, and the High-Commission, are set forth by a noble Historian, as Things that did not a little contribute to bring on us the Miseries of a Civil War. The Proceedings in King Charles the Second's Reign were severe, and set on with bad Designs. That in a Time, both of War and of a Plague, such an Act as the Five-mile Act should have passed, will amaze all that know the Secret of that Time. Soon after the Restoration, it had been a very easy thing to have made up all Differences among us, but the Design was to enslame them; and that Matter was far driven, as we all know. The Earl of Bristol called together a Meeting of the chief of the Papists, and tendered them an Oath of Secrecy, as the Lord Stafford told me in the Tower, and told it likewise at the

Bar.

Anno 2 Annæ, Bar of the House; he then told them, that the Breach be tween the Church and the Diffenters was now fixed, and would be carried further; it was therefore their Interest to make Use of all the Provocations the Dissenters might meet with, and to offer their Assistance to them, in order to the engaging them to petition for a general Teleration: Yet they could never be brought to it. When the Declaration for a general Toleration, in 1672, was questioned in Parlia. ment, which brought on the Act of the Test, set forth in the Preamble of this Bill, the Lord Clifford got some to move in favour of the Diffenters, hoping that would have provoked either the one Side or the other, and that either the Church Party might be offended with the Motion, or the Diffenters with the refusing it. That was stopt by Alderman Love, who defired, tho' his own Persuasion was well known, that nothing with relation to them might intervene to flop the Security, that the Nation, and the Protestant Religion would have by that Act: In this he was seconded by most of that Party, so that the Act was obtained, in some measure, by their Assistance, and therefore it would be hard to turn it against them; for the King was then highly offended with them, for the giving up his Declaration. This wrought & much on that House, that was so zealous for the Church, that they ordered a Bill to be brought in for the Ease of Protestant Dissenters, in which little Progress was indeed made, yet to the End of that Parliament, the Conventicles were held very publicly, and they never passed a Vote, or made an Address against them. In the End of King Charles's Reign we all remember, that a new Profecution of them was let on foot; and even then, when the Severities against them were very hard, they were sollicited by the Agents of the Court to petition for a general Toleration, but they could not be prevailed on. What some of them did in King James's Reign is well known, and cannot be es By all this we fee, that the whole Management, with relation to Diffenters, was an Artifice to advance Popish Interest, which must needs give a just Jealousy of every thing that looks that way. After the late King had delivered us from all our Fears and Dangers, to whom Het ungrateful and malicious Men treat his Memory as they please) we owe our present Happiness, and that we are now fitting here, his next Care was to secure the Church of En land by the Act of Toleration, which has not only fet the Diffenters at Eafe, but has made the Church both stronger and fafer, fince God has to bleffed our Labours, that we fee the Diffenters lose as much Strength as we gain by it. The Heat raised by those Dissentions is much allayed, and their Numbers

c

W

g

ſi

P

t

el

Pila a

pi

m cl

pr

k

th

w ha

0

an

Numbers are abated by a moderate Computation at least a Anno 2 Anne, fourth Part, if not a third. But now they are alarmed and begin to put on more Zeal, for they apprehend the Toleration is aimed at, and that, how little foever feems to be in this Bill, it is a Step, and will be followed by more, that are kept in reserve till this Point is once gained. The next Step may be for their Wives and Children, and fo the Matter may be carried on till the whole Toleration is broke thro'. If one picks at a great Dyke that keeps out the Sea. it will be thought, how small a Breach soever he makes at first, that he defigns a total Inundation. This seems to weaken and shake the Toleration; so Men will grow jealous, and be on their Guard, and by this means we of the Church shall not have so free and unexcepted an Access to work on their Reasons, which we now do with so much Success, when once their Passions are kindled against us. The present State of our Affairs makes this yet more unleasonable. It is a common Maxim, followed even by Persecutors, to keep Things quiet at Home, when Nations are engaged in War; especially in such a War as this, which is for universal Monarchy, where all is at Stake. There may happen great Accidents in War, and it is no way advisable to raise Discontents or Apprehensions in great Numbers at Home, which may come to have very ill Effects, when we are in no good Condition to deal with them.

H

•

10

18

-

th

fo h,

30

les

10

ng of

ies

A.

bat

did

ez-

ent, e a of

ing

om

hey

ing.

ger

fee

The

beu

bers

I know somewhat of Foreign Affairs: During the first fix or seven Years of the last Reign, it was the common Topic of the Agents of France, in the Courts of our Allies, that England was so disjointed by Factions at Home, that there was no trusting to it; no doubt the same Arts are now practised. Portugal and Savoy are two Allies of the greatest Consequence to us, who have no Strength to resist the Force that will be poured in upon them, but as they hope to be supported by the Treasure, the Fleet, and the Assistance of England. Any thing that divides and weakens us must give them a melancholy Prospect, and may make very dangerous Impressions on them; whereas our Union at Home, and the maintaining the happy Calm the Nation is now in, will incline them to depend more firmly on our Treaties with them.

'Some things give a just Suspicion, when the Men who promote them, and write for them without Doors, are the known and avowed Enemies of the Government, who deny the Queen's Title, and are looking to one beyond Sea. Can we think that those who separate from our Churches, and have raised a Schissm in it, can be zealous for the Peace and Order of the Church? They are zealous for somewhat else, and therefore we may well believe their Zeal in this Particu-

Ii z 1

Anno 2 Anna, lar, is with a View to that to which they are driving. One Author, who has writ two Books in behalf of this Bill, is known to be the furiousest Jacobite in England, and does no conceal it, even in those Books. In one of these he say, He is one called an High Church-man. These are new Terms of Distinction, raised on design to distract us yet more. I know no High Church, but the Church of Rome; and that Author L has in another Book shewed us, how new he comes to that Church, when he proposes, That a Tream may be fet on foot between our Convocation, and the Affen. bly of the Clergy of France; and that we should abate the Regal Supremacy, and they the Papal, and then he fancie all other Matters could be easily adjusted: So here we fe who are to be called High Church. Our legal Establishment founded upon the primitive Pattern, is the true Measure of our Church; and those who rise above it, are as much out of the way, as those who fall below it. But I knew one of the emi nentest Papists of the Age, who used often to say, He was for the Church of England as by Law established; I took the i berty to ask him how such a Profession did agree with his Sincerity? He answered, He looked upon the Laws of Queen Mary as yet in full Force, for he thought Queen Elin abeth, who repealed them, had no more Right to the Crow than Oliver Cromwell had, so that her Laws were no Law I confess, ever fince that time, I have been jealous when hear some Persons pretend so much Zeal for the Church of England. The Fury with which this Matter is driven, don heighten the Jealoufy. What great Matters could this Bill produce, if there were not somewhat under it?

How comes it that our Bench should be indecently treated, because we cannot all of us think it seasonable, an do not apprehend that we need it? We have, in the whole Course of our Lives, adhered to the Interest of the Churchs all Perils, and in all Times, without ever once in any part cular leaning to the Diffenters: And yet we, who have been our whole Life long, by our Labours and Writings, build ing up the Church, must now be defamed as the Undermi ers, because we cannot comply with other Men's Notion The Head of our Order is mifrepresented with as much la justice as Virulence, tho' he stood as in the Front of the Church in the most dangerous Times; and false Stories and made, and publicly reported of him. I love not to use hard er Words, but this could be the better borne, if it were no for the Relations and Dependencies of those who vent them I myself have met with a large Share of such Treatment though in no step or part of my Life, I ever gave the less Occasion for it. When I wrote the History of the Refor

C

mation, for which I had the Thanks of this House, I was Anno a Anne, then under no Byas; I had neither Favour nor Interest to tie me, fo that I wrote purely what was my own Sense of Things; and yet I took care to mark all the first Beginnings of Nonconformity, all the Grounds they went on, and all the Colours that imposed on them, and have shewed the Mistakes and Weaknesses of every one of them, with an Honesty and Zeal that ought to let me beyond Suspicion. But I own I began the World on a Principle of Moderation, which I have carried down thro' my whole Life, and in which I hope I shall continue to my Life's End. There was a time when those who are now so furious, and perhaps so full of hopes, needed my Service, and I had some Credit, which for some Years was chiefly employed in their behalf. Your Lordships may remember with what Vehemence I pleaded, for excufing the deprived Bishops from the Oaths. Others were then, and are now in great Posts, who, I am consident, will do me the Justice to own, that I was the common Agent both for Papifts and Jacobites in Diffress; for which we are now foill rewarded. But now to speak to the Title of the Bill, Occafional Conformity, I cannot in the general condemn this, but as it is accompanied with Error and Mistake. For a particular Instance, I myself was an Occasional Conformist in Geneva and Holland. I thought their Churches were irregularly formed, under great Defects in their Constitution, yet I thought Communion with them was lawful, for their Worship was not corrupted; but at the same time I continued my Communion with our own Church, according to the Liturgy of this Church, with all that came about me. And if the Defigns of some of the Promoters of this Bill should be brought about, and I driven beyond Sea, (unless among other unpardonable People, I should be at first knocked on the Head) I, in that Case, would communicate with the Foreign Churches, but would likewise gather all of this Church about me, and still continue to worship God, according to the Liturgy to my Life's End. So I think Occasional Conformity, with a less perfect Church, may well confist with the continuing to worship God in a more perfect one. It remains then a Point of Opinion which Church or Society is the less perfect. In this I am fure our Church is the more perfect and regular, and that the Separation is founded upon Error and Mistake; and that true Edification is among us, and not among them; but some of them, by unhappy Education, think otherwise, and in this they are certainly to blame, as they are in every Part of the Separation. But if it is intended to tolerate them under their other Mistakes, I do not see why this should not be tolerated likewise, since it is much less dangerous

ore, and hear the cies, if the ent, if the emi-

s of

OWI

aws.

en i

does

ntly

and

char arti

beet

rmi-

ions.

la.

the

sart

ard.

not

em.

ent,

lead

efor-

Anno 2 Anna, gerous than the other Practices, which are not at prefer

complained of.

'The noble Historian, whom ye are now all reading with pleasure, finds great Fault with those who did not go to the French Churches, even where they had an Ambaffadori Chapel to refort to, tho' this was certainly an Occasional Conformity with a less perfect Church, where there was no Obligation to go to it; and when they had a more perfect one at hand. It has been a Topic infifted on by all who have writ against the Dissenters, from the first Beginning the Disputes down to the present Times; they have been a ways called on to come as near the Church as they could and to do all that they could do with a good Conscience, and therefore, before the Wars, great Difference was made between the Puritans and the Brownists or Separatists, on this very Account: But now all that is reversed; the Separatifi are well look'd on, whereas those who come much neare us are discouraged, tho' we all see, that this is a Step, by which many come over entirely to us, and the Children of others do enter into a constant Communion with us; and shall we go to cast a Scandal on this to discourage it?

1

l

h

h

o n

CH B O

In my Diocese, those who are Occasional Conformin out of Principle, who sometimes go to Church, and go some times to Meetings, are without Number; who yet have n Office, and feem to pretend to none; I confess I do not de fire to press it too hard upon them, that they may not do both, left this instead of keeping them from Meetings, hinder them from coming to Church. I have heard but of one in my Diocese, who goes to Meetings, and that is only to

weekly Lecture.

'Therefore, fince Occasional Conformity is only to be blamed, when it goes upon an Error and a mistaken Princi ple, I do not fee why it should be worse treated than the Errors that are now tolerated, for it is, of all the Errors, that

which has done the greatest Service to the Church.

I now come to the Bill-itself: I miss a Preamble here, that was in the former Bill, in favour of Toleration, which is now left out; I confess I don't know how it came to be there; for it did not very well agree with the Bill, especial ly as it was first fent up to us. It put me in mind of a Clauk in the Sentence of the Inquisitors; when a Heretic is condemned, and delivered to the secular Arm, they conjure the Magistrate by the Mercies of God, and the Bowels of John Christ, that no Harm be done to the obstinate Heretic, net ther in Life nor Limb; but all this is but Farce, for he is to be burnt immediately: Yet, after all, these Words were ! folemn Declaration that could not have been forgot, if other Matters Matters had been afterwards offered at: They are now left Anno 2 Anne, out with great Sincerity, no doubt, by those who do not intend to maintain the Toleration-Act; a very honest Part when they will not profess it! I know it may be faid, let us out in these Words, and stand to them. But still this will not lay the Apprehensions, that the leaving out these Words must raise, as if the original Design of this Bill was to strike at the Toleration; and that therefore those who have conrived it, would not limit themselves by Words of their own framing, fo they may, to carry their Point, consent to their being put in by others, to which they do only give way, which they will not think to be such a Tye on them, as if hey had, of one accord, put them in the first Draught of he Bill. There are other Words in the Preamble, that do not appear to me to be well grounded after the two Acts, the Corporation-Act and the Test-Act are set forth. It is infered, that it was intended, that all Men comprehended in hem should be, and always continue to be of the Communion of the Church of England. By the first of these Acts. no Man could bear Office in a Corporation, unless he had eceived the Sacrament within three Months after; fo by he other, he who had a Place of Trust was to receive the Sacrament within three Months after, so by these Acts, it is very true, that no Man might be in any Employment, who ither had not been, or was not then in the Communion of he Church; but there is not a Clause, nor a Word in either of these Acts, that imports, that he should always contiune o be fo. If the Clause once offered had been received, obligng fuch Persons to come to Church once a Month, and to eceive the Sacrament once a Year, when this Intention hould have been fairly declared; but, as it is, fince no fuch Clause appears, I don't see how, in a Recital, we can affirm Thing that has no Foundation, for how unlimited foever our enacting Power may be, yet in a Recital a Thing must either be as it is fet forth to be, or all the Authority on Earth cannot make it to be otherwise than it is. As for the nacting Part, when in a proper Time a Bill shall be brought n, disabling all to hold any Employment, but those who ontinue to be in the Communion of the Church of England, shall concur in it heartily; but for a Fine of 50 1. I canot agree to it; that Punishment goes further than disabling; cannot agree to any fuch Clause: Nor is it consistent with he Act of Toleration, to lay a heavy Fine for going to a Meeting tolerated by Law: Nor can I confent to the reckpning the foreign Churches tolerated among us, which are y Name excepted in the Act of Uniformity, among the Meetings of the Separatists from our Church. This will

10 4

and

if

me-

10

de

t de

e in

tol

k

the

that

ere,

hich

o be

cial

lauk

con-

f efui

nei-

is to

re 1

other

Anno a Anno, have a firange Sound all the World over, and will be mighty Discouragement to all abroad, who expect Delive rance and Protection from hence, when they understand the it is made fo criminal a Thing to worship God with the and according to their Way: For these Reasons, I this this Bill ought not to be now entertained, but that the Sub. ject-Matter of the Bill ought to be left to be confidered at a proper Time.

Lord Haversham.

My Lords,

ord Haversham

I am very little personally concerned in this Bill; I have no Office, I expect none, nor do I desire any; and yet pay as much Duty to her Majesty, and wish as well to he

Government, as those that have half a Dozen.

I shall not, my Lords, enter into the Consideration the Justice or Injustice of this Bill, whether a Man may be deprived of what he has a legal Right to, without any for feiture on his Part; tho', in my Opinion, he may; because private Right is always to give place to public Safety; as nothing else can justify one of the best Bills that ever w made for the Security of the Protestant Religion, I ma the Test-Act: But this is not the Case here; the Persons a fected by this Bill are such as have always been services to the Government, and are some of the best Friends to it

Nor shall I trouble your Lordships to shew, that the great Enemies of the State do not fo much confider your you are three different Nations, but as you are an embodi People under one Sovereign. Neither does the Church Rome so much oppose you, as considered under the Notice of Church of England, Occasional Conformist, or Dissenter but as you are Part of the Northern Herefy, as you de the Supremacy, Infallibility, and affert the Idolatry of the Church: They have no more Affection for any one of the Persuasions, than for another, and equally design the Ru of us all.

But, my Lords, that which I shall strictly speak! is the Point of Time in which this Bill vifits you; and, my Opinion, it could never have come in a more unfeat able and more dangerous Juncture: I hope your Lordh will not think I wander from the Subject of the Debat if I shew you a little the present Posture of our Affairs, to many Arguments, that at least will, I hope, justify for giving my Vote against a second reading of this Bill.

First, my Lords, if we consider what a potent, what vigilant Adversary we have to struggle with, the Fra King, a Prince whose Designs are laid upon the great Maturity of Deliberation, carried on with the greatest &

I

li

th

n

W

3 m

th

Pr M

sh

bu

kn

311

crecy, and executed with the greatest Dispatch : There is no Anno 2 Anne, Unsteadiness in his Councils, his Troops are never surprized, his Designs are never betrayed, his Attempts never disappointed by either the Emulation, Envy, or private Piques of his great Generals: He can bring his Armies sooner into the Field, and keep them longer there than we can; nay, can do more with a small Part, after we are gone into Winterquarters, than we can with the main Body of ours in a whole Campaign, and that too, when they are commanded by a General that has retrieved the Glory of the English Nation. Sure, my Lords, all Heads, all Hearts, all Hands, are little

enough against such an Enemy.

her of be or and was able able

the the died the died the died the the the the Ruis

k to d, in cason diship ebate

rs, 1

y I

v hat

Fren

realt

eft &

crec

In the next place, my Lords, what heavy Taxes lie upon us here at home, without any Hope of Ease, and very little Expectation of Advantage? The Reason why Men chearfully undergo fuch Burthens, is because they expect some public Advantage by them, or, at least, that they may enjoy the Remainder with Security: But, when they have no Prospect from what is given, and are not secure of enjoying what is left, it will come very hard. We have, my Lords, given great Sums the last Year for the Army; but what great Matter have we done? For my own Part, I think no Man can reasonably expect more from what we are now raising this Year, than to meet again next Winter, and give more, and fo on.

· And as to our Navy, what a vast and fruitless Expence have we been at? I confess to your Lordships, when I consider these two Heads, it puts me in mind of old Prophecy of his Son Iffachar, in the 29th Chapter of Genefis; Islachar is a strong Ass, couching under two Burdens, he bowed his Shoulders to bear, and became a Servant to Tribute.

lieve this Prophecy has been fulfilled elsewhere.

Was there ever such an Expedition undertaken as that into the Streights, last Summer? I could never yet meet with that Man who could give a reasonable Account of it: Sure, no Man will fay that it was to carry on your Trade; that was to put the Nation to a Million Expence to carry out 3 or 400000 l. and make a kind of Necessity of as much more to bring it home: Nor will any Man, I think, own, that so great a Force was sent thither to make the Italian Princes declare for the Emperor, and then leave them to the Mercy of the French: 'Tis very true, fo vast a Fleet plainly shewed how formidable a Power the Confederates were by Sea; but sure, it shewed also the Weakness of our Conduct, that knew so little what to do with it.

But there is one Thing, my Lords, that above all amazes me: Every Body knows, that the Foundation of all 1703.

1703.

Anno 2 Anna, our Expectations and Defigns of placing the House of Austria on the Throne of Spain, is laid on the Affistance we expected from Portugal; we know too, by the manner of that Prince's Conduct and Treatment with us, that no Prince is governed more by Interest. Why then was not a greater Part of so vast a Fleet lest there to countenance or secure him? Sure, 'tis unaccountable that he should have any just Cause to apprehend himself either forgotten or neglected. No Man knows what Difficulties or Delays may force him to.

A noble Lord, with a white Staff, gave it as a Reason, who, tho' he was against the bringing in of this Bill, yet, fince it had passed another Place, he was for it; because the not passing of it now, he feared, would create a great Disturbance in our Affairs; which I take to be a great Reason against this Bill: For 'tis very well known, the leading Pan of the Nation are most concerned in it; and, if this Bill should pass, the sad Effects of it would soon be found in the Exchequer.

Besides all this, my Lords, what great and irreparable Losses have we had? The Parliament may vote Money, and Money may build Ships; but it is impossible to recover our Seamen, nor is there any Encouragement to them, or

Nursery for them.

'There is one Thing more, my Lords, which I will at present but name; because upon some other Occasion I intend to speak more of that Point. It may perhaps seem to big to be named, but I shall never think any thing so, that may prove dangerous to the Crown or Government: It is the extraordinary Favour of one or two Persons. A Thing that has been very fatal to the Royal Family, and what has been may be. I will only in short say, when all the Favour is bestowed upon one or two Persons, when all the Power by Sea and Land is either virtually or openly in one Hand; when all the Offices, like a Set of Locks, are commanded by one Master Key; I pray God it never may again prove fatal both to Crown and Country.

Give me Leave only to recapitulate and fay, whether you Lordships consider the present Posture of our Affairs, eitherst Home or Abroad, by Sea or Land, in a Court or Camp, can never think this a proper time for such a Bill.'

Dake of Devonfhire, Earl of Peterborough, Lord Mohon, Lord Ferrers,

These two Lords were supported by the Duke of Devonshire, the Earl of Peterborough, the Lord Mohun, the Lord Ferrers, and the Lord Wharton. The last of these, to them the Unleasonableness of any thing that might feem to lead to Persecution, took notice of the distracted State of Scat-Lord Wharton. land, and of the Insolence of the Papists in Ireland; adding

14

X.

i

ter

re

uft

d.

Ce

et,

)i-

on

art

Bill

be

ole

ey,

rer

10

at

in-

too

hat

tis

ing

has

our

by

d;

ded

ove

OUT

rat

, 1

ord

WS

ead

cot-

ng,

hey

they ought rather to imitate the Parliament of the latter Anno 2 Annæ, Kingdom, in their Zeal against Popery, than to frame Laws to increase their Divisions here. And the Lord Mobun, a Peer eminently conspicuous for his Parts, and his Affection to the Protestant Succession, did not stick to say, that if they passed this Bill, they had as good tack the pretended Prince of Wales to it. Upon the whole Matter, the Bill, after a The Bill refecond reading, was rejected by a Majority of twelve Voices; jected. but because there is some Difference, especially in the Preamble between this and the Bill, the preceding Year, it will not be improper to insert an Abstract of it in this Place.

Whereas by an Act made in the 13th Year of the Reign Abstract of the of King Charles II. entitled, An Act for the well-govern-Occasional ing and regulating of Corporations, it is, among other Conformity Bill. Things therein contained, enacted, That from and after the 24th Day of March, 1663, no Person or Persons should for ever be placed, elected, or chosen in or to any Office or Place of Mayor, Alderman, Recorder, Bailiff, Town-clerk, Common-Council man, or any Office or Offices of Magistracy, or Place, Trust, or other Employment relating to, or concerning the Government of any City and Corporation, within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed, who should not within one Year next before such Election or Choice, have taken the Sacrament of the Lord's-Supper, according to the Rites of the Church of England; and in default thereof every such Placing, Election and Choice, was thereby enacted and declared to be void.

'And whereas, by another Act made in the 25th Year of the Reign of the faid King Charles II. entitled, An Act for preventing Dangers which may happen from popish Recufants, it is enacted, among other Things therein contained, That all Persons, who should be admitted into any Office, civil or military, after the first Day of Easter-Term, in the Year 1673, should receive the Sacrament of the Lord's Supper, according to the Usage of the Church of England, within three Months after their Admittance, in some public Church, upon some Lord's Day; and that all Persons, who should neglect or refuse to take the Sacrament, as aforesaid, should be, ipfo facto, adjudged incapable, and disabled in Law to all Intents and Purposes whatsoever, to have or enjoy the said Offices or Employments. By which faid several Acts it was manifestly intended, that all Persons to be admitted into such Offices and Employments should be, and always remain conformable to the Church of England, as by Law established; yet the faid Acts have been most notoriously and scandalously eluded by many Diffenters from the Church of England, who have received the Sacrament of the Lord's-Supper, in order K 2

1703.

Anno 2 Anne, only to have or retain such Offices and Employments, and to evade the Penalties of the faid Laws, and have afterward withdrawn themselves from the Communion of the Church of England, and reforted to Conventicles for the Exercise of Re. ligion, in other manner than according to the Liturgy and Practice of the Church of England.

> For the preventing therefore such a scandalous and irreligi. ous Practice for the future, and the evil Confequences thereof.

Be it enacted, &c. That if any Person or Persons, after the 24th Day of March, 1704. either Peers or Commoners, who have, or shall have any Offices, Civil or Military, or shall have any Command or Place of Trust, from under her Majefty, her Heirs or Successors, or from any of her Majesty's Predecessors, within the Kingdom of England, &c. or in the Navy, or in the feveral Islands of Jersey and Guernsey, or shall be admitted into any Service or Employment in the Houshold or Family of her Majesty, her Heirs or Successor, or if any Mayor, Alderman, or other Person, bearing any Office of Magistracy, or Place, or Trust, or other Employment relating to, or concerning the Government of any of the respective Cities, Corporations, &c. who by the said recited Acts, or either of them, were, or are obliged to receive the Sacrament of the Lord's Supper, according to the Rites or Usage of the Church of England, shall at any time after their Admission into their respective Offices or Employments, or after having such Patent or Grant, Command or Place, or Trust, during their Continuance in their Offices or Employments, knowingly or willingly refort to, or be prefent at any Conventicle or Meetings, under pretence of any Exercise of Religion, in other manner than according to the Liturgy and Practice of the Church of England, in any Place within the Kingdom of England, &c. at which Conventicle, there shall be ten Persons or more assembled together, shall forfeit 501 to be recovered by him or them that shall sue for the same, by any Action of Debt, Bill, Plaint or Information, in any of her Majesty's Courts at Westminster; wherein no Essoign, or Protection, or Wager of Law shall be allowed, or any more than one Imparlance.

' And, be it further enacted, That every Person convicted in any Action, or upon any Information, in any of her Majes y's Courts at Westminster, or at the Assizes, shall be disbled from thence forth to hold such Office or Employment, and shall be adjudged incapable to bear any Office or Employment whatsoever, within the Kingdom of England, &c.

Provided always, That if any Persons, who shall have been convicted, and thereby made incapable to hold any Office, shall, after such Conviction, conform to the Church of

England

ei

m of

u

þr

Pe

f

u

e

n

b

o n

Pe

n

h n

0

England for the Space of one Year, without having been pre-Anno 2 Anno 2. Anno 2. Anno 3. Anno 3. Anno 4. Anno 5. Anno 5. Anno 6. Anno 6. Anno 6. Anno 8. Anno

or Employments aforesaid.

d

6

.

0

14 2- 3

ıe

10

ie iy

of

e-

ve

es

er

ts,

10

y-

ny of

nd

he

1.

ne, of

10

ore

ed

la-

fa-

nt,

m-

fe.

ny

of

nd

· Provided also, and be it further enacted, Thatevery such Person so convicted, and afterwards conforming in manner foresaid, shall at the next Term after his Admission into any uch Office or Employment, make Oath in writing in any of er Majesty's Courts at Westminster, or at the next Quartereffions for that County or Place where he shall reside, that e has conformed to the Church of England for the Space of ne Year, before fuch his Admission, and that he has receivd the Sacrament of the Lord's Supper at least three times in he Year, provided that no Person shall suffer any Punishment or any Offence committed against this Act, unless Oath be hade of fuch Offence, before some Judge or Justice of the Peace, within ten Days after the faid Offence committed; nd unless the said Offender be prosecuted for the same within hree Months after the faid Offence committed; nor shall ny Person be convicted for any such Offence, unless upon he Oaths of two credible Witnesses at the least.

'Provided always, That this Act, nor any thing therein ontained, shall not extend, or be judged to take away, or take void any Office of Inheritance; nevertheless, so as such ersons having or enjoying any such Office of Inheritance do, or shall substitute and appoint his sufficient Deputy, to exertise the said Office, until such time as such Person having such

Office shall conform, as aforesaid.'

Having in this manner given an Abstract of the Bill, it List of the ill not be improper to add a List of the Lords spiritual and for and against mporal, who voted for or against it, to which also we shall the Bill.

FOR THE BILL.

Lord Treasurer, Earl of Godolphin; Lord President, Earl Pembroke; Lord Privy Seal, Duke of Buckingham.

DUKES

Of Leeds, Bedford, Marlborough Captain General.

EARLS

Of Jersey, Lord Chamberlain, Kent, Bridgewater, Northampn, Denbigh, Winchelsea, Carnarvon, Thanet, Scarsdale, Anesea, Sussex, Nottingham, Secretary of State, Rochester, bingdon, Plymouth.

VISCOUNTS.
Weymouth, De Longueville.

BARONS.

Anno 2 Annæ , 1703. BARONS.

La Warr, Chandois, Pawlet, Byron, Osborn, Dartmouth, Stawell, Guilford, Ashburnham, Barnard, Weston, Granville, Guernsey.

BISHOPS

Of York, London, Winchester, Rochester, Chester, St. Afaph.

PROXIES.

Northumberland, Schomberg, Lindsey, Great-Chamberlain, Exeter, Sandwich, Bishop of Durham, Bishop of Landss, Bishop of Exeter, Willoughby of Brooke, Maynard, Leigh, Craven, Lempster, Gower, Conway.

In all Fifty Nine.

AGAINST THE BILL.

DUKES

Of Devonshire, Lord Steward, Somerfet, Master of the Hors, Richmond, Southampton, St. Albans, Bolton, Newcastle.

EARLS

Of Derby, Leicester, Bolingbroke, Manchester, Rivers, Pettoborough, Stamford, Sunderland, Essex, Feversham, Radm, Berkeley, Portland, Torrington, Scarborough, Bradsord, Runney, Orford.

VISCOUNTS.

Say and Seal, Townshend.

BARONS.

Abergavenny, Ferrers, Wharton, Paget, Howard of Efind, Grey of Wark, Lovelace, Mohun, Vaughan, Culpepper, Luce, Rockingham, Berkeley, Cornwallis, Offulftone, Herbert, Have Sham, Somers, Hallifax.

BISHOPS

Of Canterbury, Worcester, Salisbury, Ely, Litchfield, Norwich, Peterborough, Lincoln, Chichester, Oxford, Bangor.

PROXIES.

Suffolk, Carlisle, Earl-Marshal, Dorset, Burlington, Mutagu, Coventry, Fitzwalter, Eure, Willoughby of Parbas, Bishop of Hereford, Bishop of Gloucester, Bishop of Bristol.

In all Seventy One.

The Question being carried for rejecting the Bill, the sollowing Peers enter'd their Dissent.

Godolphin, Rochester, Buckingham, La Warr, Thanet, No thampton, Marlborough, Winchelsea, Nottingham, Abin, don, Longueville, Weymouth, Guilford, Granville, Gum sey, Weston, Carnarvan, Carmarthen, Stawell, H. La don, G. St. Asaph, Tho. Rossen, N. Cestrien.

On the 17th of December her Majesty made a Speech to Anno 2 Anna. oth Houses, wherein she acquainted them with a Plot car-ied on in Scotland by the Emissaries of France, and said she vould lay the Particulars before them, as foon as they could Scotch Plot.

e made public, without Prejudice.

uth,

pille,

pb.

lain.

daff,

eigh,

ne.

orfe,

eter. dun.

Rum.

crid,

ucas,

श्या

Nor-

Mos-

ban

ol.

ne.

e fol-

Nor

1bing-

иеть

Lon

01

Upon which the House of Peers appointed a select Com- The Lord exnittee of seven Lords, to take Examinations, as to the Plot, amine into the nd presented an Address to the Queen, wherein they Plot, and adhanked her for promising to communicate those Informaions to them of the ill Practices of her Enemies in Scotland, nd doubted not but the Zeal that House had shewn for havng the Conspirators secured, and their Designs brought to ight, had been very acceptable to her Majesty; and that hey would, by their utmost Zeal, maintain the Rights of he Crown, and the Church of England, in all fuch Ways s might best answer her Majesty's pious Designs, and might nost promote the Good and Happiness of all her Subjects.

This Proceeding of the Lords giving Umbrage to the Com- Misunderstandnons, it occasion'd a violent Struggle between the two Houses, ing between the y way of Appeal to the Crown instead of Conference with each Two Houses ther, as usual in the like Cases: A Detail of which is to be net with in CHANDLER's Hiftory, Anno 2 Annæ, 1703, Page 84, except a farther Remonstrance of the Lords to the Queen, reply to one of the Commons, and a Protest on the Narative of Sir John Maclean, relating to the Scottish Conspiacy; both which Pieces hereafter follow according to the

Order of Time in which they were drawn up.

The two Houses had, likewise, another Skirmish on the ase of Charles Bathurst, Esq; which see in CHANDLER's

lift. Anno 2 Annæ, 1703, Page 303.

The Lords having made an Enquiry into the present Con- Address conition of the Navy, ordered the Observations they had made cerning the be put into an Address, March the 2d, wherein they said, That, by Reason of the great Want of Men, (6000) the allow'd Complement for the whole Number of Ships, necesfary for the Defence of the Kingdom, could not be depended upon, they thought it a Duty incumbent on them to make an humble Application to her Majesty, desiring that she would be pleased to give speedy and effectual Orders, that such a Number of Ships, proper for the Home-Service, might be forthwith got ready and mann'd.'

The Queen answer'd, " She was glad they found no greater Queen's Answer, Number of Seamen wanting at this Season of the Year; and she hoped such Measures were already taken that no Service should be disappointed, either at Home or Abroad, which was necessary for the Security and Advantage of the Kingdom, or the Protection and Encouragement of Trade."

1703.

Anno a Anna,

Vote against Admiral Gray-

Besides their Lordships former * Vote against Admini Graydon, they resolved to address her Majesty to remove the faid Admiral from all Places of Truft in the Govern ment, for impressing Servants in the West Indies on board his Squadron, to the Ruin and Destruction, and against the Laws of those Islands; and that her Majesty would be pleased to order her Attorney-General to prosecute him a Law for the fame.'

The next Day the Lords took into Confideration the Re port of the Commissioners of the Public Accounts in what no lated to the Earl of Orford, as late Treasurer of the Nav. and resolved, That he had made up his Accounts very fairle

Bill for raising

March the 21ft, Hodie 32 wice lecta eft Billa, entitled. A Recruits, pas'd. Act for raising Recruits for the Land Forces and Maring and for dispensing with Part of the Encouragement and In crease of Shipping and Navigation, during the present War.

The Question was put, Whether this Bill shall pass? It was resolved in the Affirmative.

Discentient'

Protest thereon.

Because there is in this Bill the following Clause, with (That it shall and may be lawful for the Justices of the Pen of every County and Riding within this Realm, or any thm or more of them, to raise and levy such able body'd Men, a have Means for their Maintenance or Livelihood, to fem as Soldiers, for the Purposes in the Bill mention'd.)

Dartmouth, Anglesea, Gower, Torrington, Lempster, Stawel Guernsey, Haversham, Nottingham, H. London, Guilful Crewe, Granville, Thanet, Rochester, Conway, Gen Bath and Wells, Abingdon, Poulet.

Vote on the Report of the Secret Committee.

The Report of the Secret Committee of Lords being take into Confideration by the House, March 22, their Lord fhips resolved,

1 st, That it did appear to the House, that there ha been a dangerous Conspiracy carried on for raising a Rebe lion in Scotland, and invading that Kingdom with a Fran Power, in order to the subverting of her Majesty's Govern ment, both in England and Scotland, and the bringing in the 2dly, That it was the Opinion pretended Prince of Wales. of this House, that nothing can give so much Encourage ment to this Conspiracy, as that the immediate Successions

* Viz. The Year before, That Vice-Admiral Graydon, with a Squad of her Majesty's Ships of War under his Convoy, meeting with four Fren Ships in his Passage to the West-Indies, and letting them escape with attacking them according to his Duty, from the Pretence of his Instru tions, had been a Prejudice to the Queen's Service, and a great Dishonor to the Nation.

the Crown of Scotland, after her present Majesty and the Anno 3 Anno, Heirs of her Body, was not declared to be in the Princess Sophia, and the Heirs of her Body, being Protestants. 3dly, That the Queen would be pleas'd to use her Endeavours, by such Methods as she should think most proper, to have the Succession of the Crown of Scotland declar'd to be settled on the Princess Sophia, and to take such Measures as might best conduce to the disappointing and frustrating of the Designs of her Enemies, who were engag'd in this Conspiracy against her Majesty and her Government. 4thly, That her Majesty be assured, that when her Endeavours shall take Effect, for settling of the Succession, this House would do all in their Power to promote the entire Union between the two Kingdoms for their mutual Security and Advantage.'

These Resolutions were ordered to be drawn into an Ad-The Lords Comdress, and the Lord-Keeper, by Order, gave the Lords Committee thank'd mittees the Thanks of the House for their Exactness, Care, and Fidelity in the Examination of the Scottish Conspiracy.

They likewise recommended Sir John Maclean to the Queen

for Pardon and Subfiftence.

min

move

verb.

ft the

ld be

im a

e Re

at re.

Vavy.

airly.

, An

rines,

d In

Var.

vin. Peace

thre

n, a

fern

revell

ilford George

taka

Lord

e had Lebel

rend Vent

n the

rage

on the

rend ithou

Arw

The 24th, After Debate upon the first Narrative made by Sir John * Maclean, to the Earl of Nottingham, and several

Questions proposed relating thereto,

This Question was stated, viz. That that Part of the Nar-Sir John Macrative relating to Sir John Maclean, and the Papers relating leans Narrative to his Examination, taken by the Earl of Nottingham, and to the Earl of laid before the Queen, the Cabinet-Council, and this House, Nottingham. are impersect. Then,

The previous Question was put, Whether this Question

shall be now put?

It was resolved in the Negative. Contents 30; Not contents 41.

Diffentient'

Because the main Question seems to us to be the lightest protest thereone. Censure that can be passed on the Account of Sir John Maclean's Discovery laid before the Queen, the Cabinet-Council, and this House, by the Earl of Nottingham, which we conceive is very defective, as well in the Substance of it, as in the Form and Manner in which it was taken: It is not writ by his own Hand, nor so much as signed by him.

There is no mention made of what Questions were put to

him, or of his Answers thereunto.

There is no notice taken of his Negotiations with the Ministers of the Court of St. German's, who were all acquainted with this Conspiracy, as Sir John Maclean has given in 1703.

Before mentioned, Page 71.

Anno 3 Annæ. under his own Hand-writing to the Lords Committees,
1704. which he acquainted them he had told to the Earl of Not.

1 tingbam.

This Omission is of the greatest Consequence, in our Opinion, because the Papers given by Ferguson and Lindsy seem contrived to make it believed that the Court of St. Ger. main's has no Design to disturb her Majesty's Government during her Reign, and that the Earl of Middleton does all he can to prevent Conspiracies or Designs against her.

Sir John Maclean also informed the Lords Committees of the Correspondence intended to be carried on between him and the Earl of Perth; as also of the Correspondence to be settled by Frazier and Murray, and which he told the Lords of the Committee, he had acquainted the Earl of Nottingham of; and yet there is no notice taken of it in the said Account

laid before the House.

It being moved by some Lords that were against the main Question, that Sir John Maclean should be sent for to the Bar, and be heard as to the Particulars objected to the said Account, and seconded and agreed to by other Lords that were for the Question, that he should be brought to clear the Matter,

The Motion for fending him was waved, and the previous

Quettion infitted upon.

Somers t, Torrington, Scarborough, Somers, Oxford, Carlist, E. M. Rivers, Derby, Bolton, Mohun, Manchester, Hallisax, Gi. Sarum, Stamford, Abergavenny, Sunderland, R. Grey, Herbert, Esex, Rockingham, T. Wharton, Richmond.

Cafe of Ashby and White ordered to be printed. March the 27th, It is ordered by the Lords Spiritual and Temporal in Parliament affembled, that the Report made from the Committees appointed to draw up the State of the Caie upon the Writ * of Error, lately depending in this House; wherein, Matthew Ashby was Plaintiff, and William White, and others, Defendants, and the Resolutions made this Day relating thereunto, shall be forthwith printed and published, which was done to the following Effect:

ASHBY against WHITE, & al' +.

HE Plaintiff in this Action declares, that the 26th of December, in the 12th Year of King William the Third,

^{*} See the Debate in the House of Commons on this Affair, Anno; Annæ, 1704, Page 308; And likewise the farther Proceedings thereon, in the next Session, with the Conferences they produced between the two Houses, Anno; Annæ, 1704, Page 395.

⁺ Salkield's Report, fol. 19, in Cafe.

ges,

Not-

our

deg

Ber.

ent

l he

s of

him

be

ords

bam

unt

nain

Bar,

Ac.

the

OUS

lal.

nd,

ich-

ade

he

nis

ade

nd

rd,

Third, a Writ issued out of Chancery, directed to the She- Anno 3 Anna, iff of Bucks, reciting, That the King had ordered a Parliament to be held at Westminster, on the 6th of February following: The Writ commanded the Sheriff to cause to be elected for the County two Knights; for every City, two Citizens; and for every Borough, two Burgesses; which Writ was delivered to the Sheriff, who made a Precept in Writing, under the Seal of his Office, directed to the Constables of the Borough of Aylesbury, commanding them to cause two Burgesses of the faid Borough to be elected, &c. which Precept was delivered to the Defendants, to whom it did belong to execute the fame. By virtue of which Writ and Precept, the Burgesses of the Borough, being summoned, did assemble before the Defendants, to elect two Burgesses; and they being so affembled, in order to make such Election, the Plaintiff being then a Burgess, and Inhabitant of that Borough, being duly qualified to give his Vote at that Election, was there ready, and offer'd his Vote to the Defendants, for the Choice of Sir Thomas Lee, Bart. and Simon Mayne, Efq; and the Defendants were then required to receive and admit of his

The Defendants being not ignorant of the Premises, but contriving, and fraudulently and maliciously intended to damnify the Plaintiss, and to deseat him of that his Privilege, did hinder him from giving his Vote; so that the two Burgesses were elected without any Vote given by the Plaintiss, to his Damage, &c. upon not guilty pleaded, the Case went down to Trial, and a Verdict was given for the Plaintiss, and five Pounds Damages, and also Costs.

It was moved in the Court of King's-Bench in Arrest of Judgment, that this Action did not lie, and that Point was

argued by Council, and afterwards by the Court.

The Lord Chief Justice Holt was of Opinion, that Judgment in this Case ought to be given for the Plaintist; but Mr. Justice Powel, Mr. Justice Powis, and Mr. Justice Gold being of a different Opinion, Judgment was entered for the Desendant: Whereupon the Plaintist brought a Writ of Error in Parliament; and the Cause being argued at the Bar of the House of Lords by Council, and ten of the Judges, who were present in the House, being heard, and the Matter sully debated by the Lords, * the House was of Opinion,

The Cafe of William White, Richard Talboys, William Bell, and Richard Heydon, Constables of the Town of Aylesbury, in the County of Bucks, in the Year 1700. In a Writ of Error brought in the House of Lords by Matthew Ashby, upon a Judgment given for the Constables L2

Anno 3 Annæ, that the Judgment given in the King's-Bench was erroneous, and that the Plaintiff had a good Cause of Action, and ought to have Judgment.

against him in the Court of Queen's-Bench, last Michaelmas Term, at drawn up by their Council, and presented to the House.

To

The Plaintiff, Ashby, being a poor, indigent Person, and coming to settle in Aylesbury, the Overseers of the Poor there warned him out of the Parish, unless he would give Security to save the Parish harmless; and to the Purpose complained to the next Justices of the Peace, to get an Order to remove him: Whilst this Matter was in Controversy, the Election for Burgesses of Parliament came on, and the said Ashby offering himself to be polled, the Constables, (now the Defendants) refused to receive him to poll, being (in their Opinions) no settled Inhabitant there, nor did he ever contribute to the Church or Poor, either before or since the Election. After the Election was over, the said Ashby brought him Action on the Case against the Constables, wherein he sets forth, that he had Right to vote for Burgesses there, and that at that Election he offered to poll for Sir Thomas Lee, and Mr Mayne, and that the Constables refused to receive his Poll, to his Damage of 200 l.

The Constables pleaded not guilty, and thereupon a Trial was had at the Assizes at Bucks, and Ashby got a Verdict against them, and had fix

Pounds Damages given.

Whereupon, according to the constant Course of that, and all other Courts, it was moved in Arrest of Judgment in the Queen's-Bench, where the Action was brought; that, notwithstanding the Verdict, which only found the Fact, yet no such Action did by Law lie against the Defendant; and after several Arguments at the Bar, and at last at the Bench, three Judges (against the Chief-Justice) held, that the Action did not lie, and so Judgment was given for the Constables.

And now the Plaintiff, Ashby, hath brought a Writ of Error in Par-

liament.

The Defendants conceive the Judgment in the Queen's-Bench well war-

ranted by Law.

1. No such Action hath ever been brought, notwithstanding the many Elections that have been controverted every new Parliament; whereby it is evident, that it hath been the constant Opinion of all Lawyers, and others, in all Ages, that such Action would not lie.

2. Several Acts of Parliament have been made to give Remedy by Actions in Westminster-Hall, in some particular Cases of Elections to Parliament, which shew there was no Remedy at Common Law in those

Courts.

3. There never were but three Actions upon the Case brought by Candidates for false Returns, viz. Nevill's Case in the late Times, and Sir Samuel Barnardiston's Case, and Onslow's Case in the Time of King Charles II. in all which Cases the Defendants prevailed upon the Point of Law, viz that such Action would not lie. And if such Action does not lie for one elected, much less will it lie for an Elector.

4. To support every Action upon the Case, there must be Damage, in presenti, or a Possibility of Damage in future, which there cannot be in this Case, unless it be presumed, that, contrary to Act of Parliament,

the Plaintiff was to have Money for his Vote.

5. If there was Damnum, (which there is not) yet it cannot be pretended there was Injuria; and Damnum absque injuria, is not sufficient to support an Action upon the Case. As at the Common Law; if the lawful Patron presented his Clerk to the Bishop, and he resuled to admit him,

To maintain this Opinion, these three Positions were Anno a Anne. aid down:

I. That the Plaintiff, as a Burgels of this Borough, had legal Right to give his Vote for the Election of Parliament Burgesses.

II. That, as a necessary Consequence thereof, and an Inident inseparable to that Right, he must have a Remedy to

ffert and maintain it.

To

23

to of

ís ;

tan

the

ing re.

re,

hat

he

on-

l at

fire

her nere nly

its; ree

and

25-

rar-

any

reby and

by

nose

by and

ing

oint

ioes

age,

be

ent, oret to

awim,

III. That is the proper Remedy which the Plaintiff hath burfued, being supported by the Grounds and Principles of he antient common Law of England.

To make good the first Position, that the Plaintiff has a egal Right to give his Vote at the Election of Burgesses for his Borough, it was faid, that it is well known, the House f Commons confifts of Knights, Citizens, and Burgesses.

The Knights of Shires represent all the Freeholders of he Counties. Anciently, every the least Freeholder had as nuch Right to give his Suffrage, as the greatest Owner of lands in the County. This Right was a Part of his Freeold, and inherent in his Person by reason thereof, and to

t is conceived, no Action upon the Case lay against the Bishop, but a Quare impedit, in which, at Common Law, no Damages were given, which s a much stronger Case than this.

6. This is not to be compared to other Cases, where the Party hath o Remedy elsewhere than in Westminster-Hall; for here the Plaintiff ath a proper Remedy by applying to the House of Commons, although he Election is not contested by the Candidates, and parliamentary Causes

e to be determined in Parliament : And therefore,

7. 'Tis conceived, that, fince this Matter concerns the Election of fembers to ferve in Parliament, the Courts of Westminster-Hall being ot empowered by an Act of Parliament in this Case, have no Cognizance it, but the House of Commons have the Determination of it? And this urisdiction is confirmed to them by Parliament; for by the Act 7 and 8 Vill. III. cap. 7. If any Person shall return a Member to serve in Parament, contrary to the last Determination in the House of Commons, of he Right of Election, in such place the Return shall be adjudged a false eturn; by which 'tis evident, that the Commons are the only Judges in Il Matters where the Right of Election may come in question, as it must f necessity do, in all Cases where the Question is, who are the Electors. 8. If this Action should prevail, the chief Magistrates, in all Places here the Elections are made, would be in a miserable Condition upon ery new Parliament, by reason of a Multitude of Actions, which proably would be brought against them upon all contested Elections, and by he different Judgments that possibly may be given in the House of Comons, and in Westminster-Hall, touching the same Election.

9. The laying it to be done falso & malitiose (which are grown to be most Words of course in Actions on the Case) cannot give a Jurisdicon where it was not before; and, if those Words shall be sufficient, by sing annexed to a Man's Intention, almost all a Man's Actions may be cought in the Words and the Case of the C ought into Westminster-Hall by those Words, and subjected to the Power

T. Powys, Con. PHIPPS.

Anno 3 Anna. which he had as good a Title, as to receive the natural Prod fits of his Soil. This appears by the Statute of 8 Henry VI. cap. 7. which recites the great Inconvenience which did arise in the Election of Knights of the Shires, by Men that were of small Substance, who pretended to have an equal Right with Knights and Efquires of the same County, therefore that Right was abridged, and confined only to fuch Freeholders as had forty Shillings per Annum. But thereby it appears, that the Right which a Freeholder hath to vote in the Election for Knights of the Shire, is an original and fundamental Right belonging to him as he is a Freeholder.

The fecond and third fort of Men, which compose the great Representation of the People of England, are Citizens and Burgesses, who, tho' they differ in Name, yet are in Es sence and Substance the same, for every City is a Borough, and, as fuch, fends Members to Parliament.

There are two forts of Boroughs, the one more antient,

the other more modern.

Of the first fort are the most antient Towns of England, whose Lands are held in Burgage, and by Reason thereof had the Right and Privilege annexed to their Estates, of fending Burgesses to Parliament. The second fort are those Cities and Boroughs that have a Right by Prescription, Time immemorial, or by Charter, within Time of Memory, to chuse Burgesses for Parliament; both these are upon seven Foundations, the one as belonging to their Burgages, the other as belonging to their Corporations; the first is a rel Right belonging to their Houses and Lands, the other ist personal Right belonging to their Body-Politic.

As for the first, it is sufficiently described in Littleton Tenures, Sect. 162, 163, 164. A Tenure in Burgage ist Tenure in Socage, and is called a Tenure in Burgage, be cause these are the most antient Towns in England, and from thence came the Burgesses to Parhament, and they who have this Privilege, have it as belonging to their Estates or Poster

fions.

The other Right of chusing Parliament Burgesses, is not annexed to any Freehold or Estate in Possession, but vested in the Corporation of the Place, and is created in this man ner, viz.

When a Town was incorporated, a Grant was either then or after, made to the Body-Politic, that they shall have to Burgesses for Parliament, to be chosen either by all the From men and Inhabitants of the Place, or fuch a selected Number as is prescribed by the Charter.

The Inheritance of this Privilege is in the whole Corpo- Anno 3 Annual ration Aggregate, but the Benefit, Possession, and Exercise is 1704. in the Persons of those, who by the Constitutions of those

Charters, are appointed to elect.

And in all Cases, where a Corporation hath such a Privilege, the Members thereof in their private Capacity have the Benesit and Enjoyment thereof, because the Corporation, as such, is not to be represented: For it is not necessary that it should have any Estate, but by being a Corporation, they have only a Capacity to have Estates. Jones 165. Hyward and Fulcher. For as the Citizens and Freemen of a Place are incorporated for the better Government of those of the Place, so is this Privilege of having Burgesses given for the Advantage of the particular Members thereof, whose Estates are to be bound by the Acts of their Representatives.

And therefore the Wages of Citizens and Burgesses were always levied, not upon the Estates or Goods of the Corporation, but upon the Goods and Estates of the Members

thereof. +

00

id

at

y,

to

But

th

ri-

5 2

the

ens

Ef.

gh,

ent,

and.

reof

, of

hole

ime

veral

the

real

r is a

etonis

15. Z

from

have

offel.

is not

vella

man-

then,

re two

Free

umbe

The

It appears by other Instances, that it is usual and proper for Corporations to have Interests granted to them, which enure to the Advantage of the Members in their private Capacities. Moore 832. Sir Thomas Waller versus Hanger. The King granted to the Mayor and Citizens of London, that no Prisage be taken and paid for Wines of the Citizens and Freemen of London. This enures to the Benefit of every Citizen and Freeman of London for his own Wines, in which the Corporation of the City hath no Interest.

But there is no such Notion in the Law of England, as a

Right without a Remedy.

The tame thing appears by the Case of Waller and Spateman, I Saund. 343. and by the Case of Meller and Walker. These Instances make it sufficiently appear, that tho the Inheritance of this Franchise be in the Body corporate, yet it is for the Benest of the particular Members thereof: And it is certainly a great Advantage for the Men or Inhabitants of a Place to chuse Persons to represent them in Parliament, who thereby will have an Opportunity, and be under an Obligation to represent their Grievances, and advance their Prosit.

Of this Opinion have two Parliaments been, as appears by two feveral Acts, the one 34 & 35 H. VIII. cab. 13 the other 25 Car. II. cap. 9. The first is an Act for making Knights and Burgesses within the County and City of Chefter, which begins in this manner, In humble wise shew to your Majesty, the Inhabitants of your Grace's County Pa-

^{† 46} Edward III. M. 4: dorfo, &c.

1704.

Anno 3 Anna, latine of Chefter, that they being excluded and feparated from your High Court of Parliament, to have any Burgeffer within the faid Court, by Reason whereof, the Inhabitant have hitherto fustained manifold Losses and Damages, as well in their Lands as Goods and Bodies: Therefore it was enacted, that they should have Knights for the County, and Citizens for the City of Chefter: The other Act, which constitutes Knights and Burgesses for the County Palatine. and City of Durham, recites, That the Inhabitants thereof hitherto had not the Liberty and Privilege of electing and fending Knights and Burgesses to the High Court of Parlia.

The Application of these two Acts is very plain; the first faith, to be excluded from sending Knights and Burgessa to Parliament, is a Damage to Lands, Goods, and Body; the other faith, that it is a Liberty and Privilege to fend

Thus the Right of Election is explained, and shewed a be a legal Right.

That of electing Knights of Shires, belonging to and inho

rent in the Freehold.

The other, of electing Burgesses, belongs in some Cim and Towns to the real Estates of the Inhabitants; and in others, is vested in the Corporation, for the Benefit of the particular Members, who are the Electors; the havingd which is a great Benefit and Advantage to the People thereof and will prevent great Loss and Damage that otherwik would enfue.

II. It follows, that in confequence of this Right or Prin lege, the Possessors thereof must have a legal Remedy affert and maintain it.

It was faid, that there are many Rights for which Man has no Remedy by the Common Law, as in case of Legacy given, if it be not paid, the Party cannot bring Action for it. This is very true, but not applicable to the present Purpose; for the Constitution of the English Go vernment has wifely distributed to several Courts, the Deta mination of proper Causes, but has left no Subject, in an case where he is injured, without an adequate Remedy, he will go to the right Place for it; if a Man will feek in a Remedy at Common Law, for a Legacy, which by of Constitution is to be recovered in the Ecclesiastical Court, is his own Fault if he do not recover; as it would be, if should begin a Suit for Land in the Court of Admiralty, go for Equity to the Common-Pleas.

He who loses or quits his Remedy, loses his Right: I Man has a Bond for Payment of 1000l. he has no Remed 0

to recover this Money but by Action : Therefore, if he re- Anno 3 Annie, leases all Actions, he loses Right to the Money, because he has given away the Means to recover it, Coke's 6th Rep 58. Bredman's Cafe, If a Man purchases an Advowson, and at the next Avoidance suffers an Usurpation, and brings not the Quare impedit in time, he hath loft all manner of Remedy, and in consequence his Right, to which neither he nor his Heirs can ever be restored. Would it not look very strange in a Constitution so formed, that the Commons of England have an undoubted Share in the legislative Authority, which is to be exercised by their Representatives chosen by themselves, in which every Freeholder, of forty Shillings per Annum, hath a Right to vote for the County, every Citizen for a City, and every Burgess for a Borough: That, if the Sheriff, or other Officer, who is to cause the Election to be duly made, shall hinder or deprive any of those Electors of his Right, the Person injured shall have no Remedy, tho' the Injury be done to fuch a Right, upon the Security whereof the Lives, Liberty, and Property of all the People of England fo much depend.

That the Defendants, in this Case, by hindering the Plaintiff from voting, have done ill, cannot be denied; because they have excluded one who has a Right from his vote. Then, if the Law doth not allow an Action to the Party injured, it tolerates the Injury, which is absurd to say is tolerated.

able in any Government.

ted

ints

rell

en-

and

ich

ine,

reof

and

lia.

the

effer

dy;

fend

d to

nhe-

Cities

d in

f the

ngd

ereof,

rwit

Privi

dy to

ich t

e of

ing at

6 Go

Deter

in an

dy,

ek fo

y of

ourt,

, if

lty,

: If

emed

There was much Weight laid upon the Case of Ford and Hoskins, 2 Cro. 388, Mo. 142, which is, that where, by the Custom of the Manor, every Tenant for Life might name his Successfor for his Life, whom the Lord is to admit; if one be named, and the Lord refuses to admit him, it was held, an Action on the Case would not lie; because the Nominee had no Right without being admitted. But the Reafon given for that Opinson shews it has no Relation to this Case, for the Plaintiff's Right of voting is vested in him, without any previous Admittance, therefore tho' it should be Law, that no Action will lie for not giving a Right, yet certainly an Action must lie, for defrauding and hindering a Man to enjoy a Right that he hath.

When any Statute requires an Act to be done for the Benefit of another, or to forbear the doing of an Act, which may be to his Injury, tho' no Action be given in express Terms by that Statute, for the Omission or Commission, the general Rule of Law, in all such Cases, is, that the Party injured shall have an Action, Coke 10, Rep. 75. The Case of the Marshalsea, 12 Rep. 100, Co. Mag. Car. 118. This

is a Maxim allowed and approved of in all Ages.

1704. M There

Anno 3 Annæ, 1704.

There is the fame Reason where the common Law gives a Right, or prohibits doing a Wrong: But in this Cafe an Act of Parliament is not wanting, for the Statute of West. 1 cap. 5, enacts, That Elections shall be free; if he who hath a Right to vote be hindered by him who is to take his Vote, or to manage the Election, that Election is not free, fuch an Impediment is a manifest Violation of that Statute, as well as an Injury to the Party whose Vote is refused. This Statute of West. 1. shews what Opinion the King and Parliament had, of the great Consequence it was to the whole Realm, that People should have their Freedom in choice; and though the Common Law was the same before, as appears even by the Statute itself, the Words whereof are. E. lections ought to be free; yet it was judged necessary to add the Sanction of an Act of Parliament thereunto; The King commandeth, upon great Forfeiture, that no great Man, or other, by Force of Arms, or by Malice, or Menaces, shall disturb any to make free Election. The Defendants did not, by Force of Arms, drive the Plaintiff away from the Election, nor by Menaces deter him, but they did malicioully hinder him (so it is charged by the Plaintiff in the Declaration, and it is found by the Jury to be done by Fraud and Malice) and so the Defendants are Offenders within the very Words of the Statute of West. 1. Where the Law is to clear as to the Right, and the Duty fo strictly enjoined by Act of Parliament to be observed, it seems a great Presump tion to make it but a light Thing.

It being apparent that the Plaintiff had a Right, and that the Defendants have done him Wrong, and that by Confequence of Law he must have some Remedy to vindicate his

Right, and to repair the Wrong.

III. The third Thing to be shewn is, that the Remedy the Plaintiff pursued by bringing this Action, is the proper Remedy allowed by the antient Law of England.

This Action is that which is called in the Law, an Action upon the Case; that is, founded upon the particular Case

of the Party injured.

The Law, in all Cases of Wrong and Injury, hath pro-

wided proper and adequate Remedies.

r. When a Man is injured in his Person, by being beater or wounded, the Law gives him an Action of Trespass, Affault and Battery; if by being imprisoned, an Action of falls Imprisonment.

2. If his Goods be taken away, or Trespass done unto his House or Lands, an Action of Trespass lies to reput

3. If

him in Damages.

3. If a Man hath a Franchise, and is hindered in the Anno 3 Anne, Enjoyment thereof, the proper Remedy is an Action upon the Case.

The Plaintiff, in this Case, hath a Privilege and a Franchise, and the Defendants have disturbed him in the Enjoyment thereof, in the most essential Part, which is the Right

of voting.

m

00

ole

(2

add

ng

or

1211

did

the

ici-

De.

and

the

is fo

by

mp.

that

nie-

his

edy

oper

Cale

pro-

Af-

false

unto

pair

ı, I

4. Where any Officer or Minister of Justice, entrusted with the Execution of the Process of Law, does an Injury, an Action of the Case lies against him. If the Sheriff will not execute a Writ by arresting the Party-Desendant, or taking his Goods, the Plaintiff shall have his Action upon the Case, because he resused to do his Duty, to the Plaintiff's Damage.

The Precept which the Defendants received from the Sheriff in this Case, was sounded upon the King's Writ: And the Desendants are commanded, to cause two Burgesses to be elected for the Borough of Aylesbury, of which they are to give notice, and to admit every one who hath a Vote to make Use of it; if they refuse any Man to vote who hath a Right, they act contrary to the Duty of their Office.

It was objected, that it did not appear that the Persons for whom the Plaintiff voted, were elected, nor that they would

have been elected if his Vote had been admitted.

The Answer is, That it is not material whether the Perfon for whom the Plaintiff voted was chosen, if his Vote had been taken; his Right and Privilege is to give his Súffrage, to be a Party in the Election; if he be excluded from it, he is wronged, tho' the Persons for whom he would have given his Vote were elected.

The Right of Action must accrue upon the Refusal of the Vote, and is never to be made better or worse by the

Return, which is a Matter ex post facto.

It was faid in the arguing this Case, that the Plaintiff had no Damage; or at least, that there was no such Injury or

Damage done to him as would support an Action.

The Answer to that is, that the Law will never imagine any such thing as injuria fine damno. Every Injury imports Damage in the Nature of it. If a Man pick a Lock, and come into an House without the Consent of the Owner, perhaps there is no pecuniary Damage done to the Value of a Farthing; yet the Owner shall have an Action against him, and recover Damages for the Invasion of his Possession and Property. There are many Cases of the same nature, which have been determined upon this ground. In the Case between Starling and Turner, 24 Car. II. in con. Ban: (see Ventris sirst Part, Page 206.) and afterwards in Ban. Reg.

Anno 3 Annæ, The Plantiff Turner, amongst others, stood to be one of the Bridge-Masters of London Bridge, which Officer is to be e. lected by a Common Hall of the City of London: The Question was, Who had the greatest Number of Voices? The Plaintiff demanded the Poll; and the Defendant, being then Lord Mayor of London, refused it: It was adjudged, that the Action was maintainable for refusing the Poll; because every Candidate has a Right to have; and tho' perhaps if the Poll had been granted to the Plaintiff in that Action, it might have been against him, yet the Denial of that Right was a good Ground of Action. Upon the fame Reason, the Case 29 Ed. III. 18. was determined; and also the Case of Hunt and Dowman, 2 Car. 478. 2 Rolls 21.

It is apparent by what has been faid, that the Plaintiff in this present Case hath been injured, in being denied his Right; and no good Reason can be affigned that so affects this Case, as to make it differ from other Cases; tho' to to that Purpose several Matters were urged and insisted upon. As first, that this would be the Occasion of many Actions.

If that be so, there is the greater Reason to support this Action, to punish the many Wrongs that have been done, which will prevent any more of the like nature. If Of fences multiply, Remedies against them ought to be advanced. If other Officers of Boroughs have been, or shall be guilty of the like Misfeasances, as these Defendants have been, it is fit they should be liable, as these Defendants are, to make Satisfaction. If one Man be beat and imprisoned, is it any Objection against his having an Action, because all others who shall be as ill treated as he hath been, shall have the like Remedies? The only means to hinder Corruptions, that will foon become frequent among those Officers of Boroughs and Corporations, is, to let them fee that they are obnoxious to the Law, and that their Purfes must make Satisfaction to all whom they shall injure in this manner. It is true, if one Act which tends to the Injury of many Persons be committed, no one Person injured shall be allowed to have an Action, because the rest might have the same. Co. 5. Rep. 72. William's Cafe, 3 Cr. 664. Pineux ver' Hovenden; as the Case of not saying Divine Service in a Chapel of a Minor, to the Lord and Tenants; or for slopping of a Lane or common Way, because the Defendant, for one Act, would have a Multitude of Suits against him, the Injury alike affeeling a Multitude: But the Refusal of every Vote is a diftinct Act: The Party grieved, whose Vote was denied, can only bring an Action for the Refusal; the others whole Votes were admitted are not concerned. And if an Officer denies an hundred, who have a Right, these are a hundred feveral.

or te th

n

feveral Wrongs, for which he ought to be liable to as many Anno 3 Anne, feveral Actions. As if a Man will make it his Business to sling Stones, and shall hit a hundred several Men, he must make Satisfaction to them all: But surely this is so far from being an Objection, that it is a strong Argument to support the Action: For if the Mayor or Bailist of a Borough shall have Liberty to resuse Men who have Votes, he can easily make a Majority to vote on his Side; and then, what will become of Elections? The Officer will return him that is elected by a Majority of his own making, by excluding the Votes of others that have Right.

he

5?

ng

d,

e-

at

of

me

lfo

in

his

ds

to

on.

his

Of:

d.

all

ve

re,

ed,

ve

ns, Bo-

are

tis-

is

ons

ive

ep.

1 2

ne

uld

af-

lif-

can

ofe

cer

red

This would encourage Officers to be partial and corrupt, and to return divers Persons elected in that manner, who at least must have Possession of Seats in the House of Commons for some time, and give Voices in the making Laws, and imposing of Taxes, until the Right of Election be determined. And though, upon hearing the Cause in the House of Commons, this Matter may be set right at last; yet, what can compensate for the Mischief that may be done to the Kingdom in the mean time, by the Votes of those who shall be particularly returned, and are not the Representatives of

the People of the Place who are to chuse them.

Besides, the beforementioned Rules against multiplying Actions, is confined to such Acts where there is another Remedy to be had; but where there is no other Remedy but an Action, the Wrong doer must answer to so many several Actions as there are Persons injured. Suppose a Man will plough up the Ground in which a hundred Persons have a Common, he must answer all their Actions If the Inhabitants of a Town have a common Watering-place, and a Stranger stops the Current, whereby the Water is diverted, every Inhabitant shall have his Action, because there is no other Remedy.

The injured Plaintiff, in this Case, has no other Remedy besides this Action; no Indictment lies, because it is a personal Wrong to the Party, and not Wrong to the Public, but only in the Consequence of it, as an evil Example, which tends to the Encouragement of other such Officers to commit the like Transgressions; nor is there any Danger to an honest Officer, that means to do his Duty; for where there is a real Doubt touching the Parties Right of voting, and the Officer makes use of the best means to be informed; and it is plain his M. slake arose from the Difficulty of the Case, and not from any malicious or partial Design, no Jury will find an Officer guilty in such a Case, nor can any Court direct them to do it; for it is the Fraud and the Malice that entitles the Party to the Action: In this Case, the Desendants knew the Plain-

tiff

Anno 3 Anne, tiff to be a Burgress, and yet fraudulently and malicions hindred him from his Right of voting; and Justice must re quire, that such an obstinate and unjust ministerial Office

should not escape with Indemnity.

That the Officer is only ministerial in this Cafe, and not Judge, nor acting in a judicial Capacity, is most plain; hi Business is only to execute the Precept, to assemble the Ele. tors to make the Election, by receiving their Votes, compa ting their Numbers, declaring the Election, and returning the Persons elected: The Sheriff or other Officer of a R. rough, is put to no Difficulty in this Case, but what is able lutely necessary in all Cases. If an Execution be against Man's Goods, the Sheriff must at his Peril take notice when Goods a Man has.

Another Objection was made in respect to the Novelty of the Action; it was faid, never any such Action was brought

In Answer to this Objection, it may be faid, that probably there have been many Occasions given for bringing for Suits. It is to be hoped, that very few have ever been f presumptuous, as to make an obstinate and malicious Refi fal of an undisputed Vote. If the Case has happened before perhaps the Party, out of confideration that only small De mages were to be expected, might be discouraged, and think it better to acquiesce. And it is probable, the ill-designing Officer would be at least so cautious, as to refuse the Vota of fuch Persons only, as he thought, by Reason of the Meanness of their Circumstances, were unable to vindicas their Right. It is not every one that has such a true Emili Spirit as the Plaintiff, who could not fit down meanly und a Wrong done to him, in one of the most valuable Privileg of an Englishman. It is not the Novelty of the Action that can be urged against it, if it can be supported by the of Grounds and Principles of Law: The Ground of Lawi plain, certain, and univerfal, that where any Man is injure in his Right, by being either hindered in, or deprived of the Enjoyment thereof, the Law gives him an Action to repair himself.

The Case of Hunt and Dowman, which was, 16 Jan. Ann. Dom. 1618, of an Action by the Landlord against the Tenant, for hindering him from fearching his House to in whether it was in Repair, was never brought before that Time And that of Turner and Starking was not brought till 1 Car. II.

The Law of England is not confined to particular Press dents and Cases, but consists in the Rerson of them; which is much more extensive than the Circumstance of this or that Case: Ratio legis est anima legis; & ubi eadem ratio, ibi idm jus, are known Maxims.

An Action against the Master of a Ship, for that the Ship, Anno & Anne, bing in the River of Thames, was robbed, was maintained apon the same Reason as against a common Carrier; yet, ach an Action was never known until 23 Car. II. in the Case of Most and Slue. I Car. 15. Jones 93. Palmer 313. Smith and Cransbaw; an Action of the Case was brought for maliciously, and, without any probable Cause, indicting the Plaintist of High Treason: This was the first Action that was ever brought in such a Case; and yet it was adjudged maintainable, upon the same Reason as upon a malicious Indictment of Felony, 2 Levinz 250. Heming and Beal; an Action of the Case was brought against the Mayor of a Town, for refusing the Plaintist to give his Vote at the Choice of a new Mayor: And there was not any Scruple made, but that the Action did well lie, tho' that was the lift Precedent.

It is granted, that if a Freeman, who hath a Right to give his Vote for the Choice of a Mayor, be denied his

Vote, he may maintain an Action upon the Cafe.

There can be no Difference between that Case and this, anless it can be supposed that the Right to vote at the Election of a Mayor, is of a higher Estimation in the Eye of the Law, than a Right to chose Members to serve in

he high Court of Parliament.

duc

t re-

tot s his Elec-

n po-

what

ty d

bably fuci en is

Refs.

efore,

think gning Votes

f the

nglis under

ilegu n tha

se old

aw i

njurel

of the

repair

ac. L

nft the

tola

Time

till 23

Prece

which

or that

i iden

This Action is not only founded upon the Reason of the Common Law, but it hath the Sanction of an Act of Parliament, viz. the Statute of West. 2 cap. 24. which says, That whensoever, from thenceforth, it shall fortune in Chancery, that in one Case a Writ is found, and in a like Case falling under like Right, and wanting like Remedy, none is found, the Clerk of the Chancery shall agree in naking a Writ, and by Consent of Men learned in the Law, a Writ shall be made, less it should happen hereaster, that the King's Court might fail in ministring Justice to Complainants.

The Objection most insisted on was, that this is a Matter relating to Parliaments, and ought to be determined by the Law and Custom of Parliaments; and for that Reason is

not cognizable in the Queen's Courts.

In Answer to this Objection, it was shewed, first, that his Case is proper in the Nature of it, to be determined

n the Queen's Court.

2. There is no other Provision made for the Plaintiff, who is highly injured in his Right, but by bringing his Action in the Courts of Law, that have Power to determine of Mens Lives, Liberties and Properties.

Firm.

Anno 3 Annæ,

First, the Case in the Nature of it is proper for the Queen's Courts. This will be apparent, if the sevent Rights of electing Members to serve in the House of Commons be considered.

The Right of chufing Knights of the Shire is founded upon the Electors Freehold. Matters of Freehold are determinable originally and primarily in the Queen's Court, by the Rules and Methods of the Common Law, by a Jun fworn, and by the Evidence of Witnesses upon Oath: And as the Right of the Freehold is determinable there, so are all Benefits, Rights and Advantages depending thereupon, or belonging thereto.

If a Freeholder's Voice be refused by a Sheriff, what is it should hinder the Queen's Court from trying and determining this Matter, like all other Questions of Freehold, by a Jury, upon the Oaths of Witnesses, or Evidence in Writing, whether the Plaintiff that supposes himself wronged

was a Freeholder, or not?

The Right of chusing Citizens and Burgesses depends either upon Prescription or Custom, or upon Letters patents, these are also primarily and originally cognizable by the Queen's Courts: Customs and Prescriptions are triable by the Country, that is, by a Jury of twelve Men of the Country, where the Custom is alledged to be: This is

known Law in all Cases, without Exception.

And, as to Letters-patents, if pleaded specially, the Commust judge of them; and, if either Party conceives the Court hath judged amiss, he hath his Remedy by Write Error, till at latt it comes where it will receive a final Judgment. So that every Right which an Elector can have, a proper for the Determination of the Queen's Court. Then are various Ways of Election in different Boroughs, but the all depend upon Charters or Customs; and therefore are not more difficult to determine, than other Franchises or Liberties which depend upon the same Foundations.

And, whereas it was said, that by a late Act of Parliament in the 7 and 8 Will. III. the last Determination of the House of Commons concerning the Right of Elections, it to be pursued; it amounts to no more than this, that the Officer who is to make the Return is to take care to return him to be elected, who is chosen by a Majority of Electon qualified according to the last Determination of the House of Commons; if he does so, he incurs no Danger, he inot liable to an Action, but the House of Commons it is not bound by that Rule. Now, suppose the Officer wild deny a Man a Vote, who, according to the last Determination there, ought to have one; and this the Offices did well.

0

know, what is it hinders him that had Right, according to Anno 3 Anna, that Determination, from bringing his Action against the Officer who hath injured him? It cannot be the Act of Parliament, for the Queen's Courts are by Law the first and ori-

ginal Expounders of the Statutes of this Realm.

But, secondly, there is no other Court of Jurisdiction appointed by the Law of England, for determining the Right, and repairing this Injury, but the Courts of Westminster.

ded

urt,

ind,

are oon,

is it

eter-

old,

e in

nged

endi

ents;

the

e by that is a

Court

the

rit d

udg.

re, is

they

e nd

iber-

men

of the

ns, 1

et the

retun

ecton

Hou

he is

er wil

min

id well

snow

1704.

It is a general Rule, that whoever impeaches the Jurisdiction of one Court, must entitle some other Court to have a Jurisdiction of that Cause; but that is impossible to be done in this Case.

It was faid, that the Determination of the Right of Elections of Members to serve in Parliament, is the proper Business of the House of Commons, which they always would be very jealous of; and this Jurisdiction of theirs is so uncontested, that they exercise a great Power in that Matter; for they oblige the Officer to alter his Return according to their Judgment; and affirm that they cannot judge of the Right of Election, without determining the Right of the Electors; and if Electors were at liberty to prosecute Suits touching their Right of giving Voices, in other Courts, there might be different Judgments, which would make Consusion, and be dishonourable to the House of Commons, and that therefore such an Action was a Breach of their Privilege.

As to these Objections, several Answers were given.

It was admitted, that the House of Commons exercise a Jurisdiction, in determining the Right of Election of their own Members; and though the time may be assigned, when that Jurisdiction was exercised in another Place, yet there has been a Usage long enough to hinder that Point from being drawn in Question, especially after the Sanction given to it, by the Act made in the seventh Year of King William's Reign.

But though it be true, that the Merit of the Election of a Member, be a proper Subject for the House of Commons to judge of, because they only can give the proper and most effectual Remedy, by excluding the Usurper, and giving Possession of the Place to him who has the Right; yet there is a great Difference between the Right of the Electors, and the Right of the Elected; the one is a temporary Right to a Place in Parliament, pro bac vice, the other is a Freehold, or a Franchise: Who has a Right to sit in the House of Commons may be properly cognizable there; but who has a Right to chuse, is a Matter originally established, even before there is a Parliament: A Man has Right to his Ereehold by the Common Law, and the Law having annexed his Right

N

Anno 3 Anna, of voting to his Freehold, it is of the Nature of his Free hold, and must depend upon it. The same Law that give him his Right, must defend it for him, and any other Power that will pretend to take away the Freehold, upon which it

depends.

To fay the Plaintiff, in this Cafe, may apply to the House of Commons, is not sufficient, unless proved; never an fingle Elector of any Country or Borough, did complain to the House of Commons, that he was debarred of his Vot. and defire them to determine his particular Right. Some times, some of those who have Right to chuse in a Borough have complained, that Persons have been returned by the Officer, who were not duly elected, as being an Injury done to the whole Community of the Borough, to have a Perfor without Right fit there as their Representative: But this is only to bring the Merits of the Election in quellion, of which that House hath Cognizance, and therefore, as incident and necessary thereto, they may try the Right of Electors, which of them, by Custom, or Letters Patents, have Voices; but this is no more than all Courts have. In the Ecclefialial Courts, which proceed according to the Civil Law, if the Suit be originally proper for their furifdiction, they have Power to determine Things foreign thereto, as if Letters P. tents, or Conveyances of Lands come in question, though primarily and originally determinable in the Courts of Com-Matrimony is properly under the Jurisdiction mon Law. of the Ecclefiastical Court, and if a Question arises between the supposed married Parties in their Life-time, or upon Dower, or Bastardy, it shall be tried and determined then: But when an Action is brought by a Man and Woman, for posing her to be his Wife, if the Desendant pleads in Abanment, that they were not married, it shall be tried by a fun where the Action was brought; so if any one's Title w Lands depends on a Marriage, if an Acticon be brought # try the Title, the Marriage may be determined by a Jun. This shews plainly, that because the House of Common may determine who are Electors, and who are not, inch dently, and so far only as it is necessary to try the Rights the Election, it doth not follow, that when the Right of Election is not in question, they can try the Right of an Elector.

When the Right of the Candidate is examined in the House of Commons, it is in order to determine which Perfon hath the Right to join with them in the making of Law, and other public Services; and if, in order to the determining this Point, the House of Commons must judge of the Electors, they do it only to this Purpose. But the Court of Law judge of an Elector's Right wholly to another End,

1

n

t

C ti

le

as it is a Right, to affert that, and to repair in Damages Anno 3 Anna, the Elector who is wrongfully hindered from exercifing it.

This is what the House of Commons cannot do, nor to this Day was there ever any Application made to do it, and it may reasonably be supposed they will not now begin to take

it upon them.

ives

Wet

hit

oule

any n to

ote,

me-

ugh the

one

rion

is is

nich

and

nich

but

ical

the

276

Pa-

ugh om-

tion

rees

pon

re:

fup-

att.

ury

: to

to

ary.

ons

DCI-

tof

lec-

or.

er-

WS,

er-

the

ırts

nd,

25

It commonly takes up a great Part of the Time of a Seffion, to determine the Cases of Elections, before they can be fure the House is composed of such as have a Right to sit; but should they once pretend to take Cognizance of particular Mens Complaints, in order to decide the Rights of Eectors, it would be impossible for them to have any Leisure to employ themselves about the ardua & urgentia negotia regni, the Safety and Defence of the Kingdom, for which the Writ calls them together. It is granted, that the deciding of the Right of Electors is a Matter of great Weight, and, in confequence, concerns the Lives and Liberties of the Subjects of England, but the Law hath provided a proper Remedy to be pursued in the ordinary Methods of Justice, a Remedy that is adequate, where Damages may be recovered. Plaintiff, in this Case, knew he had a Right by Law to give his Vote, and when he found himself deprived of it, he resorts to the Law for his Remedy: And it is probable, most of the Electors of England will be of his Mind, and think it for their Interest to resort to the Courts of Westminster-Hall, for afferting this great Right of theirs upon Occasion, where they may prove their Case by Witnesses upon Oath, and have their Damages affessed by their Countrymen duly sworn, nothing of which can be done, if they are to feek for a Remedy in the House of Commons.

Where a Man is injured, if he cannot bring his Action to recover the Thing itself he hath lost by the Injury, the Law

will always give him Damages in lieu thereof.

It was faid in the Debate of this Case, that Instances were to be given, where the Party injured did not recover Damages, as in case where one has a Right of Presentation, and is disturbed, he could not recover Damages at the Common Law, and that was resembled to the Right of an Elector, which was said to be only a Right of Nomination. But the Answer to this Objection is plain; there the Law gives the Party a Remedy to recover the Presentation, the Thing that was taken from him, to which he is restored by the Judgment; but, in the present Case, there is no Possibility for the Plaintist to recover the Thing he has lost, which was his Vote at the Election, for that Election is over, and can never be had again, so that the Plaintist cannot possibly have any Reparation, unless it be in Damages, and this Sort of Reparation the House of Commons cannot give him.

If

Anno 3 Annæ, 1704.

If the Plaintiff, and all other injured Electors, should be obliged to go to the House of Commons for Satisfaction, it may be reasonably supposed, that the Parliament may be dissolved before it could come to his turn to have his Cause heard: What would be the Consequence of this? If the Plaintiff must be thereby without Remedy, would not the Law be notoriously desective; and yet none will say, that another Parliament did ever take Cognizance of any Injury done, upon account of an Election, to a preceding Parliament: But, suppose the next House of Commons will determine it, what endless Work would the House of Commons be engaged in? for, probably, the ensuing Election would make as many new Questions as that which went before, and which the Parliament did not live long enough to dispatch.

As to what was objected, that the same Matter may come in question in the House of Commons, where it may be determined, that the Plaintiff hath no Right; so that great Confusion would arise from different Judgments in different Courts; it is no more than what may happen every Dayin Westminster Hall, where the several Courts may be of various Opinions upon the same Question, and yet no Hurt is done to the Public; nay, this is no more than happens often in the House of Commons, where the Right of Election in the same Borough is decided different Ways in different Parliaments, and they do not think themselves dishonourd by it.

This Contrariety of Judgment can never appear, for the House of Commons never gives a direct Judgment, on this or that individual Elector's Right; the voting is either upon a general Question of the Competitors, or where the Right of Election in the Borough is placed, whether all Inhabitants, or those under a particular Qualification, or whether the whole Commonalty, or a selected Number, have Voices, and all these are but Ways and Means to determine the Right

of Election.

If the House of Commons judge of a particular Elector at any time, it is only pro ifta vice, so far as it relates to the particular Case before them; but surely the House never thought the Electors Freehold finally concluded thereby, because he is no Party to that Suit, his Right came not there in question originally, but consequently, in a Cause litigated between other Persons, to which he is no Party; and it cannot be agreeable to right Reason, or the Principles of Law, for a Man's Right to be conclusively determined, in a Cause between other Parties.

And, after all, where is the Damage to the Public, if there should be a Variety in the Determination of the House of Commons, and the Courts of Westminster? It is not impossible, in the nature of things; for the Courts of Law have great Advantages, which the House of Commons want; they want the Help of Juries, and the Power of giving Oaths, and they ought not to be displeased with their Electors, if they resort to Courts provided with these Powers, for afferting their Right of Election, especially when it is considered, that the Person, whose Pretensions the House of Commons approves of, will fit there, which is all they are concerned in: They are the Elected; and it would be strange, if that should entitle them to challenge the sole Power of deciding the Rights of their Electors; which is, indeed, to chuse their Electors.

It was urged as a great Argument against the maintaining this Action, that it had been adjudged, in the Case of Mr. Onslow, in the 33d Year of King Charles II. (second Vent. 37.) that no Action did lie at Common Law for a salise Return of a Member to sit in Parliament; and that in the Case of Barnardiston and Soame, it was adjudged the Candidate could not maintain an Action against the Sheriff for a double Return; and if the Person elected to serve in Parliament cannot maintain an Action against the Officer, it was urged a fortiori, that the Person electing, who, perhaps, is but a Cobler, ought not to be allowed to have

fuch an Action.

d be

be

aufe

lain-

w be

ther

one,

ent:

e it,

en-

iake

tch.

ome

de-

reat

rent

y in va-

rt is

ften

n in

rent

ured

the

this

pon

ight

abi-

her ces,

ight

flor

the

rever

by,

no:

ause

tv;

ples

ied,

, if

puse

of

It was answered, that the Law of England has no Respect to Persons: If an Elector be a Cobler, he is a Freeman of England, and has that great Privilege belonging to him, to be represented in Parliament. It was remembered with what Variety of Opinion among the Judges, that Case of Sir Samuel Barnardiston was determined, and what an Alarm that Judgment gave to the House of Commons, to such a Degree, that in the Session of Parliament 1679, a Committee was appointed to enquire into it, as a Grievance. And it was obferved, that the great Defign of the Act of Parliament made in the seventh Year of the late King (which was often mentioned in the Debate of this Case to other Purposes) was to cure the many Inconveniencies arising from that Judgment, and the Judgment in Mr. Onflow's Case, which only followed Barnardiston's, and was judged upon the Authority of it, But there is no Resemblance between those Cases and the Cale of an Elector. In Barnardiston's Case of a double Return of Members, the Reason on which the Judgment was founded, was, that a double Return was no Return which the Law took notice of, but was only allowed of by the Cultom of Parliament. When an Officer, who doubts, makes a double Return, he submits to the Judgment of the House

Anno 3 Anna, of Commons; and, if that House admits of such a Return as they had often done, it would be hard the Law should sub ject a Man to an Action, for submitting a Matter of Fact (the Truth of which the Officer doubts) to the Determination of those who have a Jurisdiction of the Matter, and approve the Manner of fuch a Return.

> In the other Case of a false Return of a Member, seven Reasons may be assigned for the Judgment, which are not applicable to the Case of an Elector; perhaps it might be be cause such a Return is a manifest Injury to every one of the Electors (tho' principally to the Candidate) and therefore might fall within the Reason of William's Case above-men. tioned, that every Elector might fue him; and therefor none of them severally can maintain the Action. is another Reason very obvious, because the Candidate has a proper Remedy to recover his Place, from which he is excluded by the false Return; the Right of Election is cognizable in the House of Commons, there he will recover his Seat in Parliament, which is what the Law has the principal Regard to, and there is no Reason he should have another Re medy elsewhere.

> It is abfurd to fay, the Electors Right of chufing is found ed upon the Law and Custom of Parliament; it is an original Right, part of the Constitution of the Kingdom, as mucha a Parliament is, and from whence the Persons elected to sem in Parliament do derive their Authority, and can have m other, but that which is given to them by those that haveth original Right to chuse them; this doth not touch the Juil diction claimed and exercised by the House of Commons, to try the Right of the Election of their own Members; the who pretend to be admitted to fit there, ought to make of their Right to the House; but there is no ground to init from thence, that the House hath Power to try or determine the Right of other Persons, who are not their Members, and

> do not pretend to any Place amongst them. It was faid, that if this Action were allowed, there would be a way found out for the Lords to let themfelves into, w judge of the Right of the Members of the House of Com mons to fit there, and by parity of Reason to judge of their own Privileges, as if Actions were brought for Words spo ken in the House of Commons, or other things happening in that House; which would be of ill Consequence.

> But it was faid in the first Place, that this Objection wa little applicable to the present Case, but it has no relation to the fitting of that Member, for whom the Elector who brings his Action gave his Vote.

> And, secondly, if things are so ordered by the Constitution, of the English Government, that the ultimate Resort in point

ture,

fub.

Fact,

ation

SYOT

veral

t ap. e be

fthe

re i

mep.

efore

here

e has

s ex.

-ingo

r his

cipal

r Re

und-

ginal ch as

ferve

e no

e the

urif.

15, to

they

e out

infer

mine

, and

pluov

Com-

their

Spo-

Dip

Wa

ation

Who

tion,

point

f Judicature is lodged with the Lords, let the Case concern Anno 3 Anne, what it will, when it is brought before them by Writ of error, they are bound to give Judgment one way or other; nd as to the particular Instance mentioned, relating to Vords spoken in the House of Commons, it was faid, there ever was a greater Attempt made upon Liberty of Speech in he House of Commons, than by the Information brought in he King's-Bench, 5 Car. I against Sir John Elliot, Denzil Holles, and Benjamin Valentine, Esqrs; for Words spoke in he House of Commons; they pleaded to the Jurisdiction of he Court, as being for what was done in Parliament, and herefore ought not to be examined or punished elsewhere; ut Judgment was given against them, and great Fines imofed upon them (Cro. Car. 181.) In the Parliament, which net in 1640, these Proceedings were taken into Consideraion with great Warmth, and the 8th of July, 1941, it was esolved in the House of Commons, that the exhibiting of hat Information was a Breach of the Privilege of Parliament; nd that the over-ruling of the Plea to the Jurisdiction of he Court, and the Judgment, and all that followed thereupon, vas against the Law and Privilege of Parliament, and many ther severe Votes were passed. Thus the Matter rested till fter the Restoration of King Charles II; but when things rew to be fettled, and there was leifure to confider the Conequences of former Proceedings, the House of Commons bean to think, that those Votes were not to be depended upon s a fufficient Security, in a Case of so high a nature, since pon Liberty of Speech all Parliamentary Debates were ounded; and they could not think that great Privilege fafe while so solemn a Judgment stood in Force. Therefore, in 667, the Consideration of this Matter took up a great Part f the Session, and the best Expedient they could find out vas, first, to come to a Resolution among themselves, that he Judgment given, 5. Car. I. in that Case, was an illegal udgment, and against the Freedom and Privilege of Parlianent; and then to present this Resolution of theirs to the Lords at a Conference, which was done December the 10th, 667, and to defire their Concurrence. The next Day the lords concurred in the Resolution, and at the same time which was a Thing aimed at and defired by the House of Commons) the Lords ordered the Lord Holles to bring a Writ of Error in Parliament, to the end there might be a judicial Determination of that great Point, which was done accordingy; and on the 15th of April, 1668, that Cause coming to be heard in Parliament, the Judgment in the King's-Bench vas reversed, to the great Satisfaction of the House of Commons.

Anno 3 Annæ,

So little did the House of Commons entertain Jealousieso this kind, that they themselves resorted to the Judicatured the Lords, in the manner that has been mentioned, upon weighty an Occasion.

It was objected, that many Inconveniences would follow, if this Action were allowed; but they were very sparing a giving particular Instances of those Inconveniences.

But nothing is plainer, than that by the Plaintiff's prevailing in this Action great Inconveniences will be prevented and the Subjects Right and Property secured against the Partialities and Corruption of Officers, who are trusted in a Matter of so great Moment, as the receiving and allowing their Suffrages upon Elections.

This tends to encounter false Returns in the first Approach, and to have just Returns is all the House of Commons ought to desire.

How endless would the Inconveniences be, if this Action did not lie? How would Occasions of Complaint be multiplied? The Officers who had the Return would become the Masters of Elections, and admit and reject Electors as the pleased with Impunity; for if the Electors are only to set for a Remedy before the House of Commons, it would be Remedy worse than the Disease; the greatest Part of the Cases would never be determined for want of Time; and the who could get their Cases heard, could have no Amend, that is, no Damages given them for reparation of the Wrong, besides the Absurdity of having, for the most part, the Parie to the Injury, those who sit by a false Return, Parties to the Judgment.

So that to deny this Action, is to deny the Benefit of the Law in a Matter of the most tender Concern to an English

To pretend it to be a Breach of Privilege of the House of Commons, for an Elector to feek for Remedy at Law, i he be wrongfully excluded of his Vote, is very strange.

That certainly can never be esteemed a Privilege of Puliament, that is incompatible with the Rights of the People Every Englishman is entitled to Reparation for the Injurial done to his Rights and Franchises, in the ordinary and common Methods of Justice, where the Juries who try, and the Witnesses who give Evidence, are to be upon their Oaths Magna Charta, cap. 29, is very express. No Freeman shall be disserted of his Freehold, or Liberties, or free Customs, unless by the lawful Judgment of his Peers, or by the Lat of the Land.

By the lawful Judgment of the Peers, in the case of Commoner, is meant, by a Jury of lawful Men upon the Oaths.

If one be injured in such a manner as the Plaintist in this Anno 3 Anne, Action hath been, no Man can say that per legem terræ, by the Law of the Land, he can have a Remedy for Satisfaction, and afferting his Right in the House of Commons; if there be any such Law, it must be either Statute Law, or Common Law. No Statute gives him such a Remedy, nor doth the Common Law, because that is constant Usage for Time immemorial; and there is not one Precedent can be produced, that ever any Man, upon such an Occasion, did ever apply to the House of Commons for Relief.

Upon the 14th Day of January, 1703, the House of Lords reversed the Judgment, and gave Judgment, that the

Plaintiff should recover.

re of

n fo

low.

gia

vail.

nted.

Par.

Mat.

heir

oach.

ugh

tion

tipli-

e the

they

bez

their they

ends,

rong, articl

o the

of the

ng life.

House

w, i

Par

eople.

juries

com-

d the

Daths

n fhall

ftoms,

e Law

e of s

then

e.

This State of the Case being read and approved of, the House came to the following Resolutions, viz.

It is resolved by the Lords spiritual and temporal in Resolutions Parliament assembled, that by the known Laws of this upon the Case.

Kingdom, every Freeholder, or other Person, having a Right to give his Vote at the Election of Members to serve a Parliament, and being wilfully denied or hindered so to by the Officer who ought to receive the same, may main-

ain an Action in the Queen's Courts against such Officer, to sfert his Right, and recover Damages for the Injury.

'It is refolved by the Lords spiritual and temporal in arliament assembled, that the asserting, that a Person having Right to give his Vote at an Election, and being hindered so do by the Officer, who ought to take the same, is without temedy for such Wrong by the ordinary Course of Law, destructive of the Property of the Subject, against the reedom of Elections, and manifestly tends to encourage orruption and Partiality in Officers, who are to make Remins to Parliament, and to subject the Freeholders and other lectors, to their arbitrary Will and Pleasure.

'It is refolved by the Lords spiritual and temporal in Parament assembled, that the declaring Matthew Ashby guilty so a Breach of Privilege of the House of Commons, for reserving an Action against the Constables of Aylesbury, for it receiving his Vote at an Election, after he had, in the nown and proper Methods of Law, obtained a Judgment Parliament for Recovery of his Damages, is an unprecented Attempt upon the Judicature of Parliament, and is in sect to subject the Law of England to the Votes of the louse of Commons.

It is resolved by the Lords spiritual and temporal in Parament assembled, that the deterring Electors from prosecute Actions in the ordinary Course of Law, where they are prived of their Right of voting, and terrifying Attornies, 1704.

Sollicitors.

1704.

Anno 3 Annæ, So'licitors, Counfellors, and Serjeants at Law, from follicitim profecuting, and pleading in fuch Cases, by voting their doing to be a Breach of Privilege of the House of Com mons, is a manifest affuming a Power to controut the Law, hinder the Courfe of Justice, and subject the Property of La lishmen, to the arbitrary Votes of the House of Commons!

The Lords Remonftrance to the Queen.

March the 28th. The Lords presented their * second & prefentation to the Queen against the Commons, which we conceived as follows:

May it please your most Excellent Majesty,

E, the Lords spiritual and temporal in Parliame affembled, found ourselves obliged (tho' with green Unwillingness) to make an humble Representation to you Majesty, on the 18th of January last, of the Injustice do to us by the House of Commons, and it is with the und Reluctancy we are brought to give your Majesty a second Trouble upon the like unhappy Occasion. This appears our Silence after the Address of the House of Commons po fented to your Majelly the 21st of February; for the' the Paper be in effect but one continued Misrepresentation our Words and our Proceedings, yet we thought ourselve fecure in your Majetty's great Judgment, which would de cern where the Truth lay, thro' all the Colours made were to difguile it. And we were willing to hope, that a Mode ration, which was so little deserved, could not but have good Effect upon the House of Commons. But the Von of the 29th of February, which they laid before your Me jetty, have convinced us of our Mittake, and made it imp finie for us to flatter ourselves longer with any such Expedi tion: They continue to milrepresent our Proceedings, and folicite the Throne against us, and thereby put us upon absolute Necessity of doing ourselves Justice, in laying at State of Things before your Majetty. When we oblem that the first Address of the House of Commons, was order the next Day after we entered upon the Examination Boucher; that on the 3d of February, when we appointed Day for taking the Papers relating to the Conspiracy in Confideration, the House of Commons appointed a Comm tre to draw up the Address against us, presented to ju Majesty on the 21st, which was the Day our Committee ! ported Keith's Examination; and that their Votes of 29th came from a Committee appointed to consider of Papers communicated to them, the same Day we made Address to your Majesty, to issue out a Proclamation, encouraging the Discovery of the Cypher of the gibben

Mentioned before, Page 71.

ting, eir h

W, b

En

18,

d Re

h w

amer

gree

o your e dou

utmof

fecon

ears by

ns pre-

tion d

rfelve

ild di

uled

Mode

have i

Vou

ur Ma

impa xpedi

, and

pon

g a tru

obseme

orden

ation d

ointed

cy in

to you

s of th

r of

nade of

gibbeni

Letien

Letters, (tho' they had made a Compliment to your Majesty Anno's Annæs in their reading those Papers, and had laid aside all Thoughts 1704. f them for three Weeks together) we cannot without great Concern reflect upon the Unfeasonableness of these Applicaions; what can be more likely to prevent the Discovery of his dangerous Conspiracy, than a Disagreement among hose who should unite their Endeavours in affisting your Majesty to search to the Bottom of it? What can more enourage Offenders to an obstinate Silence, than the Prospect f having the Examination interrupted by an unhappy reach between the two Houses? And what can give greater ecurity to your Majesty's Enemies, than to see a Foundaon laid for fuch Disputes, as will for ever put an End to all arliamentary Enquiries into their Defigns? The Gentlenen of the House of Commons have carried this Point so r, that rather than fuffer us to proceed quietly in fearthing to the Bottom of this dangerous Conspiracy, they do not nly reflect on us, but depart from their Pretences of Repect to your Majesty, and censure your Conduct in assisting ur Examination, as if you had thereby done an Injury to our Prerogative. We are therefore obliged, in Duty to our Majesty, as well as Justice to ourselves, farther to exlain the Grounds on which we have acted, and to produce recedents to shew, we have done nothing unwarranted by e Practice of our Ancestors.

We cannot but observe how the House of Commons have tried their Style; in their first Address they directly charged the Lords with wresting Prisoners out of your Majetty's lands; in their second Paper, they say only, we seem to sclude your Majesty from any Power over the Prisoners;

at the Charge is alike unjust in both.

They continue to complain of two of our Orders, one which, they fay, was to remove your Majesty's Pritoners it of your Custody into our own; and the other, to comit their Examination solely to a Committee of seven Lords

ofen and appointed by ourfelves.

We know not by whom a Committee of the Lords can chosen, but by the House of Lords; nor can there be by thing more parliamentary, and more proper for the ispatch and Secrecy of an Examination, than referring it a Committee.

This was practifed by both Houses of Parliament in the ear 1678, and 1679, nor was it objected to either, that ey took the Examinations solely to themselves: Tho' the ommittee of the House of Commons was, in the Style of eir own Books, a Committee of Secrecy.

0 2

The

Anno 3 Annæ, 1704. The Lords, the Commons, and the Privy-Council had that Plot under Examination at the same time, yet then were no interfering of Jurisdictions; the Papers and the William nesses were conveyed to one another as there was Occasion without any Disputes; none of them stopped or delayed to Enquiries of another, but concurred in promoting them.

We might have expected, that when the House of Common charged us a second time with violating your Royal Prepagative, and the known Laws of the Land, they would have specified what Branch of the Prerogative we had infringed or what Law, Statute or Usage, we had broken; whenever they think fit to be more particular in the Charge, we sail

be very ready with our Answers.

We shall always contend with the House of Commons Zeal for your Majesty's Honour and Safety; but we shall never pretend to be meritorious in giving up what we know to be the Right of Parliament: And we are sur your Majesty understands and loves the Constitution of the English Government too well, to approve of such a Present And therefore we must again beg Leave to insist on our former Representation, as well founded in every Particular.

We have no Cause to be sorry to hear it has been so miversally well received, since we are sure it cannot but be for your Majesty's Service, as well as a sull Justification of ourselves. We were very careful that there should be marshness in any Expression of our Representation; but they complain of Reasoning they cannot answer, or are weasy to hear Truths they cannot deny, it is not our Fault.

The House of Commons were certainly in the right, is not producing the Precedents, which they say they have, dill Language that has passed between the two Houses, is cause it could not have been agreeable to your Majesty.

We must own we never searched our Book for that Purpose; and we believe, that if ever the Commons used to like before, our Ancestors thought it unbecoming them return it; and we think it most proper to be forgotten.

We cannot think that any Expressions (by whatever Zal inspired) that are not suitable to the Decency which is do from one House of Parliament to another, can shew a Respet to your Majesty, or add any Force to their Arguments.

We do not comprehend what is meant by their faying we did appropriate to the House of Lords only, the Nam of a Parliament. There is no Foundation for that Charge in any Word of our Representation; nor was there are Occasion for such an Affertion in the Controversy between us: Both Houses are alike interested in the Point we maintain. We are sure the House of Commons have claimed

and exercifed such a Power of Examination and Commitation and Commitation as the Lords insist upon; and we are well assured, that, on proper Occasions, every suture House of Commons will do the like again: So that let the Gentlemen of the present House of Commons be as liberal as they please in renouncing their own Right, and as much displeased as they think sit with the House of Lords for not following their Example, we have this Comsort, that your Majesty is too equitable to think amiss of us for our parliamentary Rights, and we are sure of having every House of Commons, that shall sit hereaster, of our Side, as well as every Englishman who values the Constitution of his Country.

There is no Passage in our History more notorious, than that the pretended House of Commons in the Year 1648, when they could not prevail with the House of Lords, then sixting, to join with them in the intended Murder of their King, took upon them first to abolish to the House of Lords by a Vote, and then to proceed to do that execrable Fact

by themselves.

1 had

Wit.

afiot,

d the

mon

Prero.

have

inged,

never

e shall

ons in

fhall

at w

e fure

of the

efent:

n ou

cular.

o uni-

out be

on o

be m

but if

re up

ault.

ht, is

ive, d

s, be

t Pur-

ed th

em n

is du

esped

5.

aying,

Name

Charge

re any

main-

laimed

and

n. r Zel

1.

It is not therefore to be imagined what the House of Commons can mean, by faying, that Assembly was composed of both Houses. If all other Proof of the contrary was wanting, yet the Testimony of that blessed, though unfortunate King, is abundantly sufficient, who made it one of his Exceptions to that detestable Court at his Trial.

We can never call to Mind that Fact without Horror, and yet we are obliged by Law to commemorate it every Year; and surely it can never be mentioned more usefully than upon such an Occasion, when the strange Usage of one House of Parliament by another, makes it impossible not to restect on the miserable Consequences that have formerly

followed from fuch Differences.

When the Gentlemen of the House of Commons act according to the Measures taken in those Times, they ought not to be offended, if they are remember'd by the Lords. If they will take upon themselves, to stop the issuing out your Majesty's Writs for silling up their House, and that in several Places, and for a long Time, whereby they make themselves an impersect Representation, which is a Wound to the Constitution, a Wrong to the Boroughs who have a legal Right to send Representatives, and an Injustice to your Majesty, who has an undoubted Title to the Service and Attendance of all the Members; can they wonder, or ought they to complain, if we presume to tell your Majesty, that very sew things were less excusable in that unhappy House of Commons, than their resusing to fill up their Body, and compleat the Representation?

Thefe

Anno 3 Annæ, 1704.

These beginnings are very dangerous: It is not easy to foresee how far such a Practice may be carried, or what Estimates it may have upon the Boroughs that suffer the present Wrong, or upon others who may apprehend the like Usage; and who can say, but in after-times an ill Prince may take Advantage of such Precedents, and think himself justified in withholding his Writs from some, by as good Law as the Commons can shew, for pretending to stop them from issue

ing to others?

The Commons have made three Addresses to your Majesty upon this Occasion, yet have not stated the Matter in Dif. pute fairly in any one of them. The plain Matter of Fact is this; Boucher Ogleby, &c. being feized by the Custom. House-Officers on the Coast of Suffex, as they landed from France, were fent for to be brought to Town by Messengers: the Lords having resolved to examine these Persons them. felves, ordered the Messengers to bring them to the House, and committed them to the Black Rod, in order to their Examination. The Question is, Whether this Proceeding of the House of Lords was a Breach of any Law, or contrary to the Custom of Parliament? We afferted it was not, and as we humbly apprehend, we proved our Affertion, by undeniable Reasons, and we affured your Majesty we could justify it by Precedents.

It appears by our Records, that we have at all Times, when we thought it expedient for the Public Good, not only taken Prisoners out of the Custody of Messengers (which is but a temporary Confinement in order to the examining Persons, or while they are under Examination) but taken them out of any other Custody, and put them sometimes into the Custody of your Majesty's Officers attending the House of Peers, sometimes removed them from one Prison to another, as the House thought most safe and proper for their Examination.

Persons condemned, and under Sentence of Death, may be most properly called the Prisoners of the Crown, when their Lives and Estates, as well as Liberties, are entirely at Mercy; yet the House of Lords sent for several in those Circumstances from the farthest Parts of England to be examined.

We could produce Precedents in all Times, when any thing of this nature has been before the House; the most antient Records furnishing the clearest and most frequent Instances of the Jurisdiction of the Lords, in examining, trying, and punishing all great Offenders.

But we shall at present confine ourselves to the Proceedings in respect to the Popish Plot, in the Reign of your Majesty's Royal Uncle, (except in some few Instances in both Houses, as well before as after that Time) not only because that was the last Conspiracy that fell under a Parliamentary Examina- Anno 3 Anne, tion; but because both Houses of Parliament entered into the Enquiry with equal Zeal.

And we beg Leave to annex to this our humble Address, fome Extracts of the Proceedings of both Houses in that En-

quiry.

Ef.

lent

ge;

ake d in

the

ffg.

Dif.

Fad

om-

rom ers;

em.

ufe.

Ex.

of

y to

We

ble

by

hen

ken

nt a

DRS,

t of

ody

me-

the

on.

be

neir

cy;

an-

ing

ent

sof

and

ngs

ty's

fes,

was

the

We defire to observe, that though the King mentioned that Plot in his Speech, at the opening of the Session, yet he was so far from communicating the Particulars to the Parliament, or desiring them to look into it, that he directly told them, he would leave the Matter to the Law.

He was not very defirous of having the Parliament meddle with that Enquiry, and therefore it is reasonable to suppose, he would not have been filent, if their Proceedings had been a Violation of the Prerogative, and the known Laws of the

Land.

We beg Leave to make this fingle Remark, on such of the Precedents as relate to the Removal of the Popish Priests after Sentence of Condemnation, that this was taken Notice of by the Commons, and several Messages passed between the two Houses about them: The Commons were earnest that they should be executed, and insisted to have them sent back to the several Prisons for that purpose; but they never pretended to deny that the Lords had Power to send for them, or change the Custody.

The Commons in their fecond Address pretend to have been sensibly affected, and provoked to their harsh Treatment of the Lords, by what passed in the Lords House the 29th of January, which was almost fix Weeks after their

Address was presented.

It looks as if they wanted Reasons to justify the ordering that Address, when they are forced to defend it by Argument drawn from Facts which happened so long after.

If the Commons had considered our Address of the 29th of January, or 15th of February, they would have sound in them no Contradictions, or Counter-Orders to your Majesty, with which they charge us. We were informed of several Papers that had not been communicated to us; those we defired, and we received them by your Majesty's Command; and have, we hope, made use of them for your Majesty's Service and the public Sasety. We have had the Happiness that our Zeal has been more than once approved by your Majesty: And we leave the Commons to justify their own Coldness and Indifference in a Point of such high Concern.

If we look back on the Steps the Commons have made in this whole Matter, they are such as will hardly be believed hereaster: And we can desire nothing more for our Justi-

fication,

Anno 3 Anna, fication, than that our Proceedings and theirs may be

compared.

When the Papers relating to this Conspiracy were laid be fore them they contented themselves with reading them, and without offering any Advice or Affistance, gave your Maiel Thanks for laying the Papers before them, and expressed their Satisfaction in your Majesty's wife Conduct and great This was certainly justly due to your Care of your People. Majesty's prudent Administration, but was not all that might have been expected from a House of Commons, when your Majesty had laid before them the Account of such a danger

ous Conspiracy.

Thus the Matter rested for several Weeks; and when a last the House of Commons thought fit to take up a second Time the Confideration of those Papers, instead of doing what we hoped, and the Kingdom expected from them, all they did was to find new Cause of Displeasure against the Lords, to complain of what your Majesty had done, to solicite you to re-assume the just Exercise of your Prerogative, and to defire you to stop our Proceedings, as of dangerou Consequence, and what might tend to the Subversion of the Government.

This Conduct feems very unaccountable: And when they had not thought fit to pass any Judgment on the Conspincy, it is hard that the Enquiry into it should be so severely

censured.

The Commons confine what we spoke in general Terms of the fatal Consequences that have happened in most Countries in Europe, from the unhappy Differences that have arise between the Estates of the several Kingdoms, to the Instance of one Country: The Observation was general, and the Overthrow of the Liberties of most of our Neighbours sprung from this Root.

But we are surprized, that the House of Commons should fingle out that Instance of a Revolution in a neighbouring Country, where the Clergy and the Commons were prevailed upon by the Management of the Court, to carry their Refentments against the Lords so far, that they delivered up the Authority of the Lords, the Freedom of the People, and

made a total Alteration of the Government.

We cannot imagine what is meant by calling this Treachery of the Commons and Clergy, in betraying the Liberties of their Country, their uniting in the public Defence; nor can we conceive, how this comes to be mentioned on this Occasion: We hope there is no Danger of such Union amongst us for such Purposes; and we think your Majesty and your People are equally concerned in this Infinuation.

be.

वर्ष से से व

your

ight

Tuo

ger-

n at

cond

oing all the

foli-

tive,

TOUS

the

hey

ira-

rely

ms,

oun-

ifen

Ince

the

ung

blue

ring

pre-

heir

up

and

rea-

er-

ice;

01

ion

efty

I

It is wonderful that the Commons should magnify their Anno 3 Annæs wn Care in examining our Journals, reslect on us for not ooking into our own Books, and at the same time cite two recedents, in which they are entirely mistaken, and which prove the direct contrary to what is inferred from them.

The Lords in their Representation affirm, that the Comnons by appealing directly to the Throne against the House f Lords, and charging them with Attempts of the highest ature, without first asking a Conference, had done a Thing nprecedented. The Commons, to prove the contrary, cite he Address presented to your Majesty on behalf of the Bishop of Worcester, and the Address of the Lords to the ate King on behalf of four Lords named in their Address. We crave Leave to state those two Cases: The Commons ad censured the Bishop of Worcester without giving him ny Opportunity of being heard: They had voted him unhristian, which surely is aspersing the Innocent without Possibility of Reparation, as well as it was condemning him vithout a Trial, and made an Address to your Majesty to renove him from being Almoner. This Proceeding seemed ery extraordinary with respect to your Majesty; and very nparliamentary with respect to the House of Lords, of which the Bishop was a Member, and yet no Notice was aken of them: Upon this the Lords made an Application b your Majesty on behalf of the reverend Prelate, that he night not suffer in your Majesty's Opinion, before he had n Opportunity of making his Defence.

The Case of the four Lords was this; the Commons havng at the Bar of the House of Lords impeached them for igh Crimes and Misdemeanors, the next Day made an Adress to the late King to remove them from his Presence and Councils for ever: The House of Lords thought this an Attempt of the highest Nature upon their Judicature, that while the Causes were depending before them in Parliament, he Commons should quit the Part they had taken of Accuers, and pretend to be the Judges themselves, and solicit he King to put their Sentence in Execution immediately. But yet they proceeded to act with such a Moderation as was carce to be justified; they forbore expostulating with the Commons, much less did they appeal to the Throne against hem; they only defired the King not to pass any Censure pon them before they were tried; they took no Notice that he Commons had made any Address, and only endeavoured o prevent the Injustice and Oppression which might have been done to their own Members, and the Affront offered to heir Judicature, without making the least Reflection on this roceeding; and they had no other way of acting, for no 1704.

Anno 3 Annæ, Conference could have prevented the Impression that might have been made on the King by such an Application of the Commons.

Besides, in both these Cases the Commons were the Aggressors; they first applied to the Throne, and made it necessary for the Lords to follow them. Thus far these Instances may be of Use, to shew by what Steps the Common rose to this way of addressing against the House of Lords; they began these Attempts in the Case of particular Lords, which now they put in Practice against the whole Body of the Peers.

The Lords will think themselves concerned in all times, to observe and maintain the Laws and Usage of Parliament n Impeachments, and this they did with all possible Exad. ness upon the Occasion of the Impeachments of those four Lords; but they could not judge it reasonable to let the Ac. cufers share with them in their Judicature. And if the Commons in times to come shall so far forget themselves, as to endeavour to blast Men's Reputations, by exhibiting Article, when they are not able or prepared to maintain their Charge, the Lords will always look upon themselves as bound to do equal Justice, and discharge the Innocent. Nothing ca truly lessen or weaken the Force and Awe of Impeachment, but a partial Use of them: While they continue to be the equal Instrument of public Justice, they will have their Weight in all Places; but if once they are made use of to define Men only, without Thoughts of bringing them to Trial, Impeachments will lose their Terror, and the House of Commons will not increase their Honour or Authority: And i in that Case the House of Lords could not do Justice to the Accused, they would be the only Judicature which had the unhappy Power of condemning, but not of acquitting.

The Lords are far from pretending to be the sole Exminers of Conspiracies, if the Commons will do their Duy in concerning themselves for the Public Sasety; but if they will shew so little Zeal as the Gentlemen of this House of Commons have done; if, when they are told of Conspircies from the Throne, they will concern themselves so little as to leave the Enquiry to others, the Lords must of confequence be the sole Enquirers, or else Parliaments must be

totally excluded from such Examinations.

The Commons in their second Address complain, that they are accused most unjustly of exciting and earnestly desiring your Majesty to exert your Prerogative against the House of Lords. The Words of their first Address are so plain, that no other Construction could be reasonably put upon them, and we are now very sure we did not mistake their Mean-

ing, fince in the Votes which they have laid before your Anno 3 Anna, Majesty, they have thought fit to explain themselves, and in direct Terms defire your Majesty to re-assume the just Ex-

ercise of your Prerogative, and take to yourself the Examination of the Matters relating to the Conspiracy.

There needs no wresting or straining these Words, to julify the Interpretation we made of their first Address, and furely they had forgot what they faid in their fecond, when they came to pass those Votes, by which the Sincerity of their Professions, when they pretend to desire that the Remembrance of those unhappy Differences may be blotted out, does best appear. But we are still at a Loss to know what they truly mean by your Majesty's re-assuming your

just Prerogative.

night

f the

Ag.

t ne.

ftan.

mons

ords:

ords.

dy of

mes,

nents

xad.

four

e Ac.

Com-

as to

icles,

arge,

to de

can

ents,

e the

eight fame

rial,

om-

nd if

the

the

Exa-

Juty

they

e of

pira-

ittle

con-

it be

they

ring

e of

that

em,

ean-

ing

Your Majesty was pleased to lay the Papers relating to the Conspiracy before us, and you have given your Royal Approbation to the Method in which we had put the Examination: And it seems a strange Averseness to parliamentary Enquiries, that they would not leave it possible, even with the Concurrence of the Crown, for either House of Parliament to enquire into Conspiracies; tho' at the same time we must freely own, that if this Power be not lodged in us by the Constitution, it ought not, nor, indeed, cannot be given and delegated by the Crown.

Most Gracious Sovereign,

We humbly ask Pardon for having detained you so long, upon a Subject which cannot but be disagreeable to your

Majesty.

We beg leave to conclude, with expressing the just Sense we have of that virtuous and truly royal Moderation, which your Majesty has shewn upon this Occasion, in not suffering yourself to be prevailed upon, to do any thing to the Prejudice of the Constitution, from whatsoever Hands the Invitation comes. It shall be our daily Prayers to Almighty God, that he will long preserve and and prosper your Majelly for the Good of this Kingdom; and that your Reign may be as glorious all the World over, as it is happy to all your People.

Her Majesty's most gracious Answer to the Representation, or Address, runs thus:

My Lords.

The Queen's

Hope none of my Subjects have any Desire to lessen my Answer. Prerogative, fince I have no Thought of making ule of

it, but for their Protection and Advantage.

I look upon it as a great Misfortune, when any Misunderstandings happen between the two Houses of Parliament, " which Anno 3 Anna, which cannot be without so much prejudice to the Public,

't that I shall never omit any thing in my Power to prevent
the Occasions of them.'

PRECEDENTS out of the Journals of the House of LORDS.

22^a die Maii, 1675. A Paper was presented to the House, being Examinations taken by some Justices of the Peace is the County of Surrey, concerning some blasphemous Speeche spoken by John Taylor, now a Prisoner at the Goal at Guilford, which Paper being read, the House ordered as follows, viz.

Ordered, That the Serjeant at Arms bring in fafe Custody to the Bar of this House, on Friday next, at ten of the Clock in the Forenoon, the Body of the said John Taylor.

Die Lunæ 21 Octobris, 1678. His Majesty acquaints the Lords and Commons with a Plot against his Person, in 1 Speech, part of which Speech, so far as relates to the Pla, follows, in bæc werba:

"I now intend to acquaint you, (as I shall always do with any thing that concerns me,) that I have been informed of a Design against my Person by the Jesuits; of which shall forbear my Opinion, lest I may seem to say too much, or too little, but I will leave the Matter to the Law; and, in the mean time, will take as much Care as I can, to prevent all manner of Practices by that fort of Men, and of others too, who having been tampering in a high Degree by Foreigners, and contriving how to introduce Popers among us."

Whereupon, the House made the following Address;

We your Majesty's most dutiful and Ioyal Subjects, the Lords spiritual and temporal in Parliament assembled, having been acquainted by your Majesty, that there is Information given of a horrible Design against your Majesty's sacred Life, (which God long preserve) are humble Suiton to your Majesty, that you would vouchfase to communicate to us (as far as your Majesty shall think sit) such Papers to have any Tendency to the Discovery thereof, or of any other Design against the Protestant Religion, as it is now established in the Church of England, that we may use our most Endeavours to serve your Majesty, according to our bounden Duty and Allegiance.

23 Octobris 1678. The Papers concerning the Plot wert delivered to the Deputy Clerk of the Parliaments, by one of the Clerks of the Council.

Lords Committees were appointed to confider of the Papers transmitted from the Council by his Majesty's Directions,

concerning the Discovery of the horrid Defign against his Anno 3 Anno 3 Anno 3 Majesty's facred Person, or of any other Design against his Majesty, or his Kingdom, by introducing Popery, whose Lordships have Power to send for Persons, Papers, and Records, as they shall see Cause.

30 Octobris, 1678. Ordered, That Nathanial Thomson, who is now in the Custody of William Sorocold, for printing popish Books for James Thomson, shall stand committed to the Prison of the Gate House, at Westminster, during the Pleasure

of this House.

blic.

vent

of

oule,

ce ii

che

ford,

Viz.

Rody

Clock

the

in a

Plot,

with

rmed

ich [

uch,

and,

pre-

nd of

gree

pery

, the

hav-

nfor

efty's

iton

icate

rs as

efta.

out of

were

ne of

Pa.

ions,

COD-

31 Octobris 1678. Ordered, That the Lords with white Staves do attend his Majesty, humbly to desire him from this House, that the Papers of Mr. Whitebread and Mr. Micho, which have been read at the Council-Table, may be, by his Majesty's Command, brought before the Committee to examine Papers, relating to the horrid Design against his Majesty; and also that the Clerks of the Council may bring the Minutes, taken by them, upon the Examination of Titus Oates, and others, before the Council, concerning this Matter.

4 Novembris, 1678. Ordered, That the Lords Committees appointed to examine the Lords who are Prisoners in the Tower of London, for Treason, shall also examine such other Persons, who are now Prisoners in the Tower for Treason, as their Lordships shall think sit, and also Sir Ellis Leighton, now Prisoner in Newgate; and that the Lord Chief Justice of England do assist their Lordships at such Times as they shall appoint; and that one of the Clerks of the Privy-Council do attend their Lordships.

8 Novembris, 1678. Ordered, That the Lords, with white Staves, do attend his Majesty, humbly to desire from this House, that the Letter of Mr. Coleman, of the 29th of September, 1675, to Father Le Chese, and another of his to Father Le Chese, wherein he owns the sending the said Letter, and Monsieur Le Chese's Letter, whereby he owns the Receipt thereof, which have not been read in this House, may, by

his Majesty's Order, be brought hither.

The Lord Treasurer reported his Majesty's Answer.

"That his Majesty will give Order, that the said Letters is shall be brought to this House, as soon may be."

18 Novembris, 1678. Ordered, That Edward Coleman, now a Prisoner in Newgate for Treason, be brought by the Keeper of Newgate, before the Lords Committees to peruse Letters and Papers, To morrow at nine of the Clock in the Forenoon; and that the Duke of Monmouth be desired to send a sufficient Guard of Soldiers, to assist the Keeper of Newgate, in the Service of bringing and returning Edward Coleman.

Anno 3 Anna, 1704.

Ordered, That the Lords, with white Staves, do humbly defire his Majesty, that his Majesty will please to give Onder, that the Papers of Mr. Goodwin, now in the Hands of the Clerks of the Council, may be brought before the Lords Committees appointed to consider of, and prepare the Evidences for the Trial of Mr. Coleman.

23 Novembris, 1678. Ordered, That the Serjeant at Arm attending this House, his Deputy, or Deputies, do forthwith repair to Stratford upon Avon in Warwickshire, and bring thence the Body of Mr. John Gerard, supposed to be a Pries, and one other Person mentioned, but not named, sin a Letter dated there the 20th of November) and subscribed Simm Cale, Mayor, John Wolmer; in which it is recited, that they were in Custody there, for refusing the Oath of Allegiance, and bring them in safe Custody to the Bar of this House.

27 Decembris, 1678. Ordered, That Dr. Lower, and Dr. Warner, be, and are hereby appointed to visit Mr. White, alias Whitebread, being sick near Weld bouse, and give the House an Account To-morrow Morning, in what Condition

of Health they find him.

28 Novembris, 1678. Ordered, That the Clerk of his Majesty's Privy-Council, in whose Custody the Deposition lately taken at the Council-Board are, which concern the Queen's Majesty, be, and is thereby appointed to bring the said Depositions before this House To-morrow at nine of the Clock in the Forenoon.

29 Novembris, 1678. The House received an Account, that Dr. Lower and Dr. Warner have visited Whitebread, and they find that his former Distempers have left him, and he hath now only a Tertian Ague; and their Opinion is, that he may be removed fafely upon his intermitting Days: It is ordered, that the Serjeant at Arms attending this House, shall, To morrow, attach the Body of Mr. White, alias White bread, and carry him forthwith to the Prison of Newgas, there to remain in safe Custody, till he shall be delivered by due Course of Law.

Upon Information given to this House, that one Daniel Maccarty, a Romish Priest, is now under Custody in Theteford in the County of Norfolk: It is ordered, that the Sejeant at Arms attending this House, his Deputy or Deputies, shall forthwith repair to Thetsford aforesaid, and bring thence the Body of the said Daniel Maccarty, in safe Custody to the Bar of this House.

20 Decembris, 1678. Whereas Daniel Maccarty, a Roman Priest, was, by Order of the 29th of November last, brought from the Jail of Thetford, in the County of Norfolk, by the Serjeant at Arms attending this House, and is now in his

Cuflody

Custody here; it is this Day ordered, by the Lords spirinal and temporal, in Parliament assembled, that the Lords Committees for examining Persons and Papers, for Discovery of the horrid Design against his Majesty's Person and Government, shall examine the said Daniel Maccarty: And f their Lordships find, that he is not charged with any Pariculars relating to the said Design, he is to be remitted and est to the Law; but if otherwise, their Lordships are to report to the House what they find concerning him.

3 Decembris, 1678. Upon Information given to this House, by the Lord Windsor, that one Edward Whitaker lands committed in the City of Worcester, for some unbecoming Words by him uttered, as is certified in a Letter to his Lordship, signed Jo. Tyas, Mayor: It is ordered, that the said Mr. Whitaker shall give Bail before the Mayor of Worcester, for his Appearance before the Lords in Parliament,

within eight Days next after such Bail given.

mbly

e Or-

ds of

Lords

Evi.

Arm

with

bring

rieft,

Let-

Simon

they

ance,

Dr.

bite,

this

lition

f his

itions

a the

g the

of the

ount,

read,

and that

It is

oufe,

Vbitt.

gate,

ed by

aniel

Thet.

Ser-

epu-

oring

flody

mil

ught

y the

his stody

fe.

Die Veneris 13 die Decembris, 1678. Edward Whitaker being called for, to answer the Charge against him, sent up from the Mayor of Worcester, but being not to be sound, It is ordered, that if the said Edward Whitaker come not, and render himself before the House rises, he shall be attached; and he not coming, it is ordered by the Lords spiritual and temporal, in Parliament assembled, that the Serjeant at Arms attending this House, or his Deputy, do forthwith attach the Body of Edward Whitaker of London, Gentleman, and bring him in safe Custody to the Bar of this House To-morrow Morning, to answer to the Informations put into this House, upon Oath, against him: And this shall be a sufficient Wartan: on that behalf.

Whereas Edward Die Sabbati 14 die Decembris, 1678. Whitaker was this Day brought to the Bar by the Serjeant at Arms attending this House, to answer to the Informations gainst him, which he denies, alledging, that he hath Witpeffes to clear himself of the Matters charged on him: Upon Consideration had thereof, it is ordered, by the Lords spiritual and temporal, in Parliament affembled, that the faid Edward Whitaker may, and shall have Order for summoning his said Witnesses, to be heard viva voce, on the second Day of the fitting of the Parliament, next after Christmas, if he befires it; at which Time also, the Witnesses, who have informed against him, shall be summoned to be heard viva voce; and that in the mean time, the faid Serjeant at Arms hall deliver the said Edward Whitaker, into the Prison of Newzate, there to remain in safe Custody till further Order: And this shall be a sufficient Warrant on that behalf.

3 Decem-

Anne,

Upon Information given to this 3 Decembris, 1678. House, that one -Barnesly, a Romisto Priest, is now under Custody in the City of Worcester; it is ordered, that the Serjeant at Arms attending this House, his Deputy, or Deputies, shall forthwith repair to the City of Worceffer, and bring thence the Body of the faid -- Barnefly, in

fafe Custody, to this House.

Die Sabbati, 14 die Decembris, 1678. Whereas Hem Barnesty, who was, by Order of this House, fent for from the Goal of Worcefter, was this Day brought to the Bar by the Serjeant at Arms attending this House, and there examined being supposed to be a Popish Priest; it is ordered, by the Lords spiritual and temporal, in Parliament assembled, that the faid Henry Barnesly Mall, by the faid Serjeant at Arm, or his Deputy or Deputies, be returned into the Goal in Worcester, there to remain in safe Custody, 'till he shall be thence delivered by due Courfe of Law: And this shall be

a sofficient Warrant on that Behalf.

Die Lunæ 23 Die Decembris, 1678. Upon reading the Petition of Henry Barnesly, now in the Custody of the Ser jeant at Arms attending this House, shewing, that, being by Order of this House brought from Worcester, and, by like Order, to be returned thither again; and that being ver old and fickly, he is not able to bear the Journey in this hard Season of the Year; and therefore praying, that he may remain here upon Bail: It is ordered, by the Lords spiritual and temporal, in Parliament assembled, that the said Hum Barnesty (being charged to be a Popish Priest) shall, by the faid Serjeant at Arms, he delivered into the Prison of the King's-Bench, there to remain in fafe Custody, 'till he be better able to be returned to Worcester, in order to his Trial there; and this shall be a sufficient Warrant on that Behalf.

6 Decembris, 1678. Upon Report made by the Earl d Clarendon, from the Lords Committees to examine Person, and Papers, &c. that their Lordships think it necessary the Sir Henry Tichborne, a Popish Recusant, now Prisoner in the Goal at Winchester, be brought up to Town : It is ordered, that the Serjeant at Arms attending this House, his Deputy or Deputies, shall forthwith repair to Winchester, and bring thence the faid Sir Henry Tichborne, and deliver him into his Majesty's Tower of London, there to remain in safe Custody, 'till farther Order; And this shall be a sufficient Warrant !

that Behalf.

To Sir George Charnock, Knight, Serjeant at Arms, attending this House, and to the Keeper of the Goal at Winchester, and to the Constable of his Majesty's Town

of London, and their respective Deputies; as also, to Anno 3 Anna, all his Majesty's Officers, civil and military, to be aiding and affishing in this Service.

20 Decembris, 1678. Upon Information given to this House upon Oath, that Thomas Thorn, now, or late, Servant to Richard Tashrough, Esq: hath uttered dangerous and treafonable Words, and that he is at present in the Goal at Bury in Saffolk: It is ordered, that the Serjeant at Arms attending this House, or his Deputy or Deputies, shall forthwith repair to Bury, and bring thence the said Thomas Thorn, in safe Custody to the Bar of this House, to answer thereunto.

21 Decembris, 1678. Whereas Richard Tashrough, Esq; was this Day brought to the Bar, by the Serjeant at Arms, and denied all that was alledged against him; and whereas there is a Warrant of the Lord Chief Justice of England, issued against him; it is ordered, that the Serjeant at Arms deliver the said Richard Tashorough in safe Custody, to such Person or Persons as the Lord Chief Justice of England shall

direct.

hat

er,

in

my the

the

ed,

the

hat

ms,

l in

be

be

the

Ser-

by like

vert

this

may

itual

entry

the

e be

Trial

half.

fl of

fons,

that

n the

ered,

puty

bring

to his

lody,

nt in

teno-

al at

Tower

29 Martii, 1679. Upon Information given to this House, that Richard Tasbrough, Esq; who is charged to be guilty of he late horrid Conspiracy, for which he was committed to the Prison of the King's-Bench, hath since been enlarged, upon Bail, and is now to be brought to his Trial at the Affizes at Bury, in the County of Suffolk: Upon Confideration had of the Case of the said Richard Tasbrough, it is order'd, by the Lords spiritual and temporal, in Parliament affembled, that the Judge of Affize for that County be, and is hereby directed, that his Lordship proceed no urther upon the Trial of the faid Richard Tasbrough, than to the Indictment of him, and the finding thereof by the Grand Jury; and that the faid Richard Tasbrough may be afely sent up to London, in order to his Trial, to be had at the Bar of the Court of King's-Bench. And it is further orlered, that Mr. Thomas Beake, one of the Messengers attendng his Majesty's Council-board, be, and is hereby authoized and required, with all Speed, to attend the faid Judge of Assize for this Purpose, and to take Care of the Execuion of this Order, as to the bringing up the faid Richard Tashrough in safe Custody, in order to his intended Trial: And for so doing this shall be a sufficient Warrant.

26 Decembris, 1678. Ordered, That it be referred to the Lords Committees for examining Persons and Papers, to ex-

Imine Richard Tasbrough and Thomas Thorn.

Upon Information to this House by the Lord Viscount Newport, that one Valentine Harcourt, a Popish Priest, is 1704.

Anno 3 Anna, taken, and now in Custody in the Goal of Shreausbury: 1 is ordered, that the Sheriff for the County of Salop, be, and is hereby required, to take, and give Order for the fending of the faid Valentine Harcourt in fafe Custody, to appear a the Bar of this House, and that the Charge of the faid Sherif shall be allowed upon his Account in the Court of Excheque And it is ordered, that the Sheriffs of the respective Coun. ties, through which the faid Valentine Harcourt shall put in his being fent up, as aforesaid, be aiding and affiling to the Furtherance thereof, as Occasion shall require.

Die Veneris 21 die Martii, 1678-9. Upon Report made from the Lords Committees, for examining Matters relating to the Discovery of the late horrid Conspiracy, that Cap. Francis Spalding, Deputy Governor of Chepftow-Caftle, who was, by Order of this House, dated the 21st Day of No. wember last, committed to the Prison of the King's-Bench, for Matters wherewith he stands charged, hath fince the time been enlarged upon Bail, and being upon Bail, commands still at Chepflow-Castle, as Deputy-Governor, and hath mifbehaved himself, as hath appeared to the faid Lord Committees: It is thereupon ordered, by the Lords spiritual and temporal, in Parliament assembled, that the Serjeants Arms attending this House, or his Deputy or Deputies, to forthwith attach the Body of the faid Francis Spalding, and bring him in fafe Custody to the Bar of this House: And this shall be a sufficient Warrant on that Behalf.

Die Jovis 27 die Martis, 1979. Captain Francis Spalling being brought to the Bar, by the Serjeant at Arms, was all ed, whether he is not under Bail? which he acknowledged and that Sir Ralph Delaval and Mr. Banks are his Bail, take in the King's-Bench; and being asked, why he went dom to Chepftow-Castle, being a Prisoner under Bail, and by whose Order? He said, he had no Order for it, but went d his own Head. Then the Matter wherewith he was charged, and for which he was committed on the 21st of Novembr last, was read, and also the Deposition of Thomas Crowden,

a Soldier of that Garrison, was read, &c.

Whereas Captain Francis Spalding, who was on the 211 of November last committed to the Prison of the Kingb Bench, there to remain in fafe Custody 'till further Order, hath fince procured his Enlargement upon Bail, and repaired to Chepfiow Caftle, as Deputy-Governor thereof, and mile haved himself there, as appeareth by the Deposition of The mas Crowder, and other Matters, upon which he was the Day examined at the Bar, being now in Custody of the Ser jeant at Arms attending this House: It is ordered by the Lord spiritual and temporal, in Parliament assembled, that the sid Francis

e, and

ending

ear at

herif

Coun-

Misting

made

lating

Capt

, Who

f No

Bench,

com-

, and

Lords

ritual

ant a

es, do

, and

And

alding

s ak-

igedi

taken

down

d by

rged,

ember

wder,

211

ing's

rder,

aired

nilbe-

The.

s this

Ser.

ords

e faid

ancis

Francis Spalding be re-committed to the Prison of the King's- Anno 3 Annæ, Bench, there to remain in safe Custody, 'till further Order; and that the said Serjeant at Arms, or his Deputy, take care o convey him, the said Francis Spalding, to the said Prison:

And this shall be a sufficient Warrant on that Behalf.

25 Martii, 1679. Upon Report made by the Earl of Clarendon, from the Lords Committees for examining Maters relating to the Discovery of the late horrid Conspiracy, hat their Lordships are of Opinion, that Edward Turner, a Priest and Jesuits, who hath been examined before them, and s now in the Custody of Francis Strutt, a Messenger, should be committed to Prison: It is ordered, that the said Francis Strutt, shall forthwith deliver the said Edward Turner into the Prison of the Gate-house, at Westminister, there to remain a Prisoner, 'till he shall be delivered by due Course of Law.

To Francis Strutt, Messenger, his Deputy or Deputies, and to the Keeper of the Prison of the Gate-house.

15 Aprilis, 1679. Whereas Sir William Andrews is seized n, and brought to Town in Custody, as an Agent in the ate horrid Conspiracy against the King: It is this Day or-ered, that the Officer, in whose Custody the said Sir William Andrews is, shall forthwith deliver the said Sir William Andrews into the Prison of the Gate-house at Westminster, here to remain a Prisoner, 'till further Order.

28 Aprilis, 1679. Upon Report from the Lords Committees for examining Matters relating to the Discovery of the ate horrid Conspiracy, that their Lordships have received Information made upon Oath, that Sir William Andrews, now a risoner in the Gate-house, at Westminster, is engaged in the Conspiracy against his Majesty's Person and Government: It is thereupon ordered, by the Lords spiritual and temporal, n Parliament assembled, that the Keeper of the Gate-house foresaid, be, and is hereby required to take Care, that the aid Sir William Andrews be forthwith conveyed and safely elivered into the Tower of London, there to remain a Prioner, 'till he shall be discharged by due Course of Law; and or so doing, this shall be a sufficient Warrant.

21 Aprilis, 1679. Upon Report from the Committee for Examinations, that James Allen, who was taken into Custody, being charged with encouraging Elizabeth Oxley to fire Houses, hath been examined by your Lordships, and denieth what s charged upon him; and in regard the Examinations taken oncerning a House fired in Fetter lane, are before a Committee of Commons: It is ordered, that the Serjeant at Arms thending this House, do forthwith carry the said James Allen

Q2

Anno 3 Anna, to the faid Committee, to be examined, and disposed of a 1704.

they pleafe.

Upon Report from the Committee of Examinations, that their Lordships think it necessary, that William Sturges, now a Prisoner in the Goal at Chelmsford, should be brought to Town: It is ordered, that the Serjeant at Arms attending this House, do forthwith repair to the Goal at Chelmsford in Effex, and bring thence the Body of the faid William Sturges, and deliver him into the Prison of the Gate-bough at Westminster, there to remain a Prisoner, 'rill further Order.

23 Aprilis, 1679. Upon Report from the Lords Com. mittees for Examinations, that their Lordships find it requifite, that David Lewis, who hath been tried and condemned as a Popish Priest, at the Assizes held for the County of Monmouth, and is now in Goal there, may be brought to Town; It is ordered, that the Sheriff for the County of Monmouth, be, and is hereby required to take Care, and give Order for the speedy conveying the said David Lewis, in Safety, from the faid Goal, to be delivered into the Prison of Newgan, the Charges of which Service shall be allowed to the fail Sheriff upon his Account in the Exchequer.

The like Order for Roger Hanflip, in the Goal at Glouceffer. The like Order for John Kemple, in the Goal at Hereford. The like Order for Francis Johnson, alias Webb, in the

Goal at Worcester.

The Earl of Clarendon reported from the 8 Maii, 1679. Lords Committees for Examinations, that William Harcourt the Jesuit is taken, and now in the Hands of the Officer that took him: It is ordered, that the faid William Harcourt & brought to the Bar presently.

Eodem die, post meridiem. William Harcourt was brought. to the Bar, and being there charged with Treason, the Houle

made the following Order:

· Whereas William Harrison, alias Harcourt, was this Day brought to the Bar, and was there charged with High-Treafon: It is ordered, that the Gentleman-Usher of the Black-Rod, attending this House, do take special Care, forthwith to convey the faid William Harrison, alias Harcourt, in Safety to Newgate, there to remain a Prisoner, 'till he shall bedilcharged by due Courfe of Law.'

To the Gentleman-Usher of the Black Rod, attending this House, &c.

Die Lunæ 19 Maii, 1679. Whereas Richard Gerard, Esq; is charged upon Oath with Treason: It is ordered, that the Keeper of the Prison of the Gate-house, at Westminster, (in whose Custody the said Richard Gerard now is) be, and is hereby required forthwith to take care for the conveying

f as

that

at to

ding

ford,

llian pouse, der.

om-

equi-

Mon-

wn;

outh,

r for

gate,

efter.

ford.

the

the

court

that

rt be

ught.

loule

Day

rea-

ack-

with

fery

e dif-

ng .

rard,

that

fter,

and

ying

of the faid Richard Gerard to the Prison of Newgate, there Anno 3 Anna, to remain a Prisoner, 'till he shall be discharged by due 1704. Course of Law: And this shall be a sufficient Warrant in that Behalf.

30 Odobris, 1680. It being fignified to this House. that Oliver Plunket, the titular Primate of Ardmagh, in the Kingdom of Ireland, is. by his Majesty's Order, brought over hither, in order to his Trial here, and is now in Cuftody in the Hands of a Messenger: It is ordered, that the Meffenger, in whose Hands the said Oliver Plunket now is, be, and is hereby authorized and required, forthwith to convey and deliver the Body of the faid Oliver Plunket into the Prison of Newgate, and that the Keeper of the said Prison do keep him there in Sasety, until he shall be discharged by due Course of Law: And that the said Keeper and his Under-Officers do take Care, that the faid Oliver Plunket be kept a close Prisoner, till the Pleasure of this House be farther fignified; and this shall be a sufficient Warrant in that Behalf.

To the Messenger in whose Custody the said Oliver Plunket is, and also to the Keeper of the Prison of Newgate, his Deputies and Under-Officers, and every of them.

4 Januarii, 1680. Ordered, By the Lords spiritual and temporal, in Parliament assembled, that Mr. Attorney-General do peruse the Information read this Day, and draw Warrants for the Commitments of Sir John Fitzgerald, Colonel Pierce Lacy, and Lieutenant Colonel Brady, as may be available in the Law, and attend the Judges for their Assistance therein, and present the same to the House To-morrow, at ten of the Clock in the Forenoon.

Ordered, That Sir John Fitzgerald, Colonel Pierce Lacy, and Lieutenant Colonel Bradly, do remain in the Custody of the Pursuivant, as now they are, 'till the House gives further Order.

5 Januarii, 1680. Ordered, By the Lords spiritual and temporal, in Parliament assembled, that Sir John Fitzgerald be committed to the Gate-House for Treason, in compassing the King's Death, and in levying War, and practising to introduce a Foreign Force into the Kingdom of Ireland, and to depose the King from the Crown of Ireland; and the Messenger, in whose Hands the said Sir John Fitzgerald is, be, and is hereby authorized and required, forthwith to deliver and convey the Body of the said Sir John Fitzgerald into the Prison of the Gate bouse; and that the Keeper of the said Prison do receive and keep him there in safe Custody, 'till he shall be discharged by due Course of Law: And this shall be a sufficient Warrant in that Behalf.

Ordered,

Anno 3 Annæ,

Ordered, By the Lords spiritual and temporal in Parliament assembled, that Pierce Lacy, Esq; be committed to Newgate for Treason, in compassing the King's Death, and in levying War, and practising to introduce a Foreign Force into the Kingdom of Ireland, and to depose the King from his Crown of Ireland; and that the Messenger, in whose Hands the said Pierce Lacy now is, be, and is hereby authorized and required, forthwith to convey and deliver the Body of the said Pierce Lacy into the Prison of Newgate; and that the Keeper of the said Prison do receive, and keep him there in safe Custody, until he shall be discharged by due Course of Law: And this shall be a sufficient Warrant on that Behalf.

The like Order for Colonel William Bradly.

Die Martis, 10 die Decembris, 1689 Ordered, by the Lords spiritual and temporal, in Parliament assembled, that Mr. Vernatti, now in Custody, do stand committed to the Gentleman-Usher of the Black Rod attending this House. And it is further ordered, that the said Gentleman-Usher go to the Lodgings of the said Vernatti, and secure his Papers, and seal them up in his Presence, and set a Guard on his House or Lodging.

PRECEDENTS out of the JOURNALS of the House of COMMONS.

24 Martii, 14 Car. II. Upon Information, that George Withers had been the Author and Publisher of a scandalous and seditious Pamphlet, to enrage the People, and to vilify and defame the Members of this House, and to blemish the Honour and Justice of this House, and their Proceedings, and was now a Prisoner in Newgate.

Resolved, That the said George Withers be brought in Cultody of the Serjeant at Arms attending this House, or his Deputy, to the Bar of this House, at sour of the Clock this Asternoon, to be examined touching the Matters objected against him; and the Keeper of Newgate, or his Deputy, is to cause him to be brought accordingly.

Resolved, That this House do adjourn 'till three of the

Clock this Afternoon.

George Withers being then brought in Custody to the Bar of this House, and the scandalous seditious Libel, with which he stands charged, being shewn unto him, the same being in two distinct Papers; upon View of the first of them, he declared, That the same might be his Hand, but that it was but Parcel of what he intended; and the other Writing being shewn to him, he confessed the same to be of his own Handwriting; and two Witnesses being called in, viz. Henry Northrop and Robert Heyborne, and testifying that they took the

S

b

to

faid Papers from under Mr. Withers's Hand, and that he was Anno 3 Annus, writing part of them just when they were taken from him; and that he did, upon Examination before Mr. Attorney General, confess the said Papers to be of his own contriving and

drawing.

ent

ate

ing

the

Wn

aid

ed.

rce

the

dy,

his

rds

Ar.

en-

nd

to

nd

ule

rge

ous

ify

the

ba

uf.

his

his

2-

is

he

ich

in

de-

but

ing

nd-

or.

the

Resolved upon the Question, That George Withers, who was this Day brought from the Prison of Newgate to the Bar of this House, be sent Prisoner, and delivered into the Custody of the Lieutenant of the Tower, there to be kept in close Custody, and to be denied Pen, Ink, and Paper, and debarred from having any Company to come unto him. And it is referred unto Mr. Pryn, Mr. Serjeant Charleton, Mr. Solicitor General, Serjeant Maynard, Dr. Birkenhead, Mr. Thurland, Mr. Smyth, Mr. Vaughan, and Mr. Clifford, or any three of them, to peruse the seditious, infamous Libel by him contrived, and draw up an Impeachment against him, and report it to the House at their next Meeting.

21 Octobris, 1678. Ordered, That a Committee be appointed to examine concerning the Murder of Sir Edmundbury Godfrey, and to enquire into the Manner and Means how he came by his Death; and likewife to enquire into the Particulars of the Plot and Conspiracy, mentioned in his Majesty's Speech, against his Person and Government; which Committee was empowered to fend for Persons, Pa-

pers and Records.

Ordered, That an Address be made to his Majesty, by such Members of this House as are of his Majesty's Privy-Council, humbly to desire his Majesty, that all Papers which do relate to the Plot and Conspiracy, mentioned in his Majesty's Speech, against his Person and Government, may be communicated to the said Committee.

23 Octobris, 1678. Resolved, &c. That the Matter concerning the Plot and Conspiracy, mentioned in his Majesty's Speech, against his Person and Government, be heard at the

Bar of the House.

Ordered, That Mr. Michael Godfrey be forthwith fent for, to attend with the Papers and Examinations, taken by Sir Edmundbury Godfrey, and now remaining in his Custody sealed up, touching the Plot and Conspiracy mentioned in his Majesty's Speech.

24 Octobris, 1678. The Papers of Examinations taken by Sir Edmundbury Godfrey, touching the Plot and Conspiracy, mentioned in his Majesty's Speech, which were delivered in by Mr. Michael Godfrey, were opened, and by Mr. Speaker

read to the House.

Ordered, That the Chairmen of the Committee, appointed to examine concerning the Murder of Sir Edmundbury God-

frey,

1704.

anno 3 Anna, frey, concerning the Plot, mentioned in his Majesty's Speech Ordered, That Mr. White, alias Whitebread, and Mr. Micho, be removed from the House where they are now, to Newgate, in case they be in a Condition fit to be removed.

25 Octobris, 1678. Mr. Speaker acquaints the House that in Pursuance of the Order of the House Yesterday, he had waited upon his Majesty, and acquainted him with the Informations the House had Yesterday received, and that his Majesty was pleased to acknowledge the great Care of this House, in the Preservation of his Person and Government: and that his Majesty was informed, that Mr. White, alian Whitebread, and Mr. Micho, were at present very fick, but that his Majesty would send to see them; and if they were in a Condition fit to be removed, they should be forthwill Sent to Newgate.

Ordered, That the Members of this House, who are lat. tices of the Peace for the County of Middlesex, do repair to the Lodgings of Mr. White, alias Whitebread, and Mr. Mich, and take their Examinations touching the Plot and Confo. racy mentioned in his Majesty's Speech, against his Person and Government; and do iffue out their Warrants for fearth ing their Lodgings, and feizing all fuch Papers and Writing

relating thereto, as shall be there found.

25 Octobris, 1678, post meridiem. Ordered, That the & cretaries be defired to move the King, that the Keys of Mr. Langborn's Chamber may be delivered by the Meffengers, in whose Hands the same are, to the Committee appointed by the House to search Mr. Langborn's Papers and Writings.

26 Octobris, 1678. Ordered, That an humble Addres be made to his Majesty, by such Members of this Housea are of his Majesty's most honourable Privy-Council, to defire his Majesty, that Mr. Coleman's Papers, and all other Papers relating to the Plot and Conspiracy, mentioned by his Majesty in his Speech, may be communicated to the House.

Mr. Secretary Williamson informs the House, that in Pursuance of the Order Yesterday, he had attended in Majesty, and acquainted him with the Defires of this House, that a Committee of this House might have Leave to fearch Mr. Langhorn's Papers; and that his Majesty was pleased to give Leave that the same may be searched, and had appointed two of the Clerks of the Council to affift the Committee therein : And that his Majesty was pleased to de liver him some of Mr. Coleman's Papers sealed up, and or dered him to deliver the same to the House; and had allo commanded him to acquaint the House, that the rest of Mr. Coleman's Papers were at prefent under Examination before the House of Lords; and that so soon as the Lords had done Anno 3 Anne, with them, they should be communicated to this House:

And the Papers were accordingly, by Mr. Secretary Wil-

hamfon, delivered in, fealed up.

ech.

Mr.

V, to

red.

oufe,

, he

a the

et bis

this

ent:

alias

, but

were

with

Jul.

ur to

Ticho,

mfpi.

erfor

arch.

tings

e Se Mr.

rs, in

ed by

gs.

dres

ile as

o de-

other

ed by

the .

at in

d his this

eave

was and

ft the

d or-

210

Mr.

efore

the

29 Octobris, 1678. Ordered, That his Majesty be humbly desired, by such Members of this House as are of his Majesty's most honourable Privy-Council, that an Inventory, or List of all Mr. Coleman's Papers, which have been forted by the Clerks of the Council, may be communicated to this House; and that all those Papers which are not sorted, may be delivered over to a Committee of this House.

Ordered, That a Committee be appointed to examine Mr. Coleman, touching the Plot and Conspiracy mentioned

in his Majesty's Speech.

31 Octobris, 1678. This House being informed that the Clerk of the Council was attending without, with Mr. Coleman's Papers;

Ordered, That the Papers be delivered to the Clerk of the House, and by him transmitted to the Committee ap-

pointed to examine the fame.

2 Novembris, 1678. Ordered, That the Clerk of the Council now in waiting, do forthwith attend with Mr. Harcourt's Papers and Writings; and that all other Papers and Writings relating to the Plot mentioned in his Majesty's Speech, either in the Hands of the Secretaries of State, or in the Hands of the Clerks of the Council, be forthwith communicated to this House, according to the Leave graciously given by his Majesty.

22 Novembris, 1678. Resolved, That an humble Address be made to his Majesty, by such Members of this House as are of his Majesty's Privy-Council, to desire his Majesty, that such Letters and Papers which relate to the Plot now under Examination, as have not been perused by this House.

may be communicated to them.

29 Novembris, 1678. A Message from the Lords by Sir

John Coel and Sir Samuel Clark.

'Mr. Speaker, The Lords have received Information, that there is a Faculty under the Seal of Cardinal Barberini, for dispensing with the taking of the Oaths, and other things, in the Hands of a Member of this House, which their Lordships desire may be communicated to them.'

Sir John Knight acquaints the House, that the Paper mentioned by the Lords was found among Mr. Ireland's Papers, and he delivered the same in at the Clerk's Table; which

being read by Mr. Speaker,

Ordered, That the faid Paper be fent to the Lords, and that Mr. Speaker do acquaint the Messengers, that when 1704 R their

Anno 3 Anna, their Lordships have perused the same, this House does ex pect it should be returned again, in order to be entered in the Journal of this House : And the Messengers being called in, the faid Paper was delivered them, and Mr. Speaker ac.

quainted them with the Pleasure of the House.

26 April, 1679. Resolved, That an humble Address be made to his Majesty, to desire his Majesty to give Order for the executing of Pickering; and also to give Order to the Judges, to iffue out their Warrants for executing the fa veral Popish Priests, which they have condemned in ther feveral Circuits.

Maii, 1679. The Lord Ruffel acquaints the House, that his Majesty had commanded him to let the House know. that his Majesty is willing to comply with the Request made to him by this House, concerning Pickering, and that the Law shall pass upon him accordingly.

As to the condemned Priests, the House of Peers have fent for them, in order (as his Majesty conceives) to some

Examinations.

9 Maii, 1679. post meridiem. Mr. Hampden reports from the Committee appointed to inspect the Lords Journals, and fee, inter alia, upon what Grounds the condemned Popil Priests are sent for, that the Committee had inspected the Journals, and taken out Copies of their Proceedings, which he reported to the House.

20 Maii, 1679. Ordered, That a Message be sent to the Lords concerning the condemned Popish Priests, sent for up to London from the several County Goals, by Order of their

Lordships.

22 Maii, 1679. Sir William Franklyn reports from the Committee appointed to draw up and prepare a Message w be fent to the Lords, concerning the Popish Priests condemned in the Circuits, that the Committee had agreed upon a Message to be reported to the House, which he read in his Place, and afterwards delivered the same in at the Clerks Table, where the same was twice read, and upon the Que

tion, agreed, and is as followeth, (viz.)

The House of Commons having made an humble Address to his Majesty, that he would be pleased to give Order w the Judges, to issue out their Warrants for the executing the feveral Popish Priests condemned in the several Circuits; and his Majesty having been graciously pleased to fignify to the House of Commons, that your Lordships have sent for them, in order (as he conceived) to some Examination: And the House of Commons being also informed, that the said Priess have, by Order from your Lordships, not only been brough out of the feveral Counties, where they were condemned

but continued yet in Newgate, and other Prisons, in or about Anno 3 Anna, the Cities of London and Westminster, by reason whereof the Execution of the Sentence pronounced upon them is still delayed, do desire of your Lordships, that the said Priests may be forthwith remanded to the several Counties where they were condemned, that fo they may be executed, according to the Judgment passed upon them.

25 Octobris, 1 Will. & Mariæ, The House being informed, that several of the Prisoners of the Tower were now bailing in the Court of King's-Bench, being brought thither by the Governor of the Tower, by virtue of a Habeas Corpus awarded for that Purpose, particularly Sir Thomas Jenner,

ex.

d in

illed

20-

s be

rder

r to

e fa

their

that

now, made

the

have

fome

from

and opil

the

hich

o the

or up

their

a the

ige w

COL

upon in his

lerk's Quel

ddres

der w

ng the

; and

to the

them,

d the

Prief ough

mned,

Mr. Richard Graham, and Mr. Philip Burton.
Ordered, That Sir Thomas Jenner, Mr. Richard Graham, and Mr. Philip Burton, be immediately brought to this House by the Governor of the Tower, to answer to such Matters as shall be objected against them.

And Mr. Speaker issued his Warrant accordingly, and the fame was fent by the Serjeant at Arms attending this House.

Afterwards, the Serjeant acquainted the House, that Sir Thomas Jenner was bailed, and gone out of Court, and that Mr. Graham was bailing in the Court; and that notwithstanding he had delivered the Warrant to the Governor of the Tower, and that he was coming with Mr. Graham, and Mr. Burton.

Ordered, that Sir Thomas Jenner be fent for in Custody of the Serjeant at Arms attending this House, to answer to such

Matters as shall be objected against him.

The House being informed, that Mr. Burton and Mr. Graham were at the Door, they were severally called in to the Bar of the House, and charged with the several Matters mentioned in the faid Report, and heard what they could fay touching the same.

And being withdrawn, Ordered, That Mr. Richard Gratam, and Mr. Philip Burton, be committed to the Custody of the Serjeant at Arms attending this House, for several high

Crimes and Misdemeanors objected against them.

And it is referred to &c.

4 Januarii, 1697. The House being informed, that * Mr. Reginald Marriot had fent to several Members of this House, Letters, acknowledging that he had been concerned in the irregular Indorsement of Exchequer Bills; and therein offered fully to relate how that notorious Practice had been projected and carried on, and in what manner he had been drawn into the fame.

R 2 Ordered,

^{*} Mr. Reginald Marriot was under Profecution, by Order of the ords Commissioners of the Treasury, and was under Bail.

Anno 3 Annæ,

Ordered, That the said Mr. Reginald Marriot be summoned to attend this House immediately, and the said Mr. Marriot attending accordingly: He was brought in by the Serjeant at Arms attending this House to the Bar, where he delivered at Account of his Knowledge of that Matter in Writing, signed by himself, which he read at the Bar, and afterward delivered into the House.

Ordered, That the Examinations taken before the Lord of the Treasury, relating to the irregular Indorsement of

the Exchequer Bills, be laid before this House.

A Motion being made, that the House will order that all Prosecutions at Law against the said Mr. Marriot, be sayed during the Pleasure of the House;

And a Debate arifing thereupon:

Resolved, That the Debate be adjourned till To morrow

Morning.

Ordered, That the faid Mr. Marriot be taken into Custody of the Serjeant at Arms attending this House; and that so Person be permitted to converse with, or bring any Letter to him, without Leave of the House.

5 Januarii, 1697. Mr. Lowndes, according to Order, presented to the House several Papers, relating to the Enminations, taken before the Lords of the Treasury, touching the false Indorsement of the Exchequer-Bills.

The House resumed the adjourned Debate of Yesterday, touching the ordering the Stay of any Prosecution at Law

against Mr. Marriot.

Ordered, nemine contradicente, That all Profecutions at Law against Mr. Reginald Marriot, in relation to the falle Indorsement of Exchequer-Bills, be stayed, during the Plature of this House.

But nothing more was done in this Bufiness.

March the 31st, The Lords address'd the Queen to put now into the Commission of the Peace who had refused the Oaths to King William, but Men of Quality and Estates, and of known Affection to her Majesty's Title and Government and the Protestant Succession.

April the 3d, The Queen came to the House of Peers, and put an End to the Session with a Speech, which see is CHANDLER'S Hist. Anno 3 Annæ, 1704, Page 391.

Upon the Close of this Session, her Majelly was pleased to make some Alterations at Court, by dismissing the Earl of Jersey, Lord Chamberlain, and Sir Edward Seymour, Comptroller, from her Service, and preserving Sir Thomas Mansill, and the Earl of Kent in their Room. Mr. St. John was like wise made Secretary at War in the Room of Mr. Blatbwagh.

Alterations at Court. And the Earl of Nottingham, having some Time before re- Anno 3 Anna, figned his Office of Secretary of State, it was bestow'd on 1704.

Mr. Harley, Speaker of the House of Commons.

The forcing the French Lines at Donawert, commonly Exploits of the called the Battle of Schellenberg, and the Victory at Blenbeim, with all its glorious Consequences, were the Fruits of our military Virtue on that Side of Europe, and the taking of Gibraltar by Sir George Rooke, and the * Sea-Fight off Malaga with the Count of Toulouse (in which the French were superior in Strength to the Consederates, by ten three-deck Ships, twenty sour Gallies, and six hundred great Guns) on the other.

Exploits of the Year 1704.

The THIRD SESSION of the First Parliament of Queen Anne

AS opened by her Majesty, Ochober the 29th, with a Speech, which see in Chandler's History, Anno 3

Anna, 1704, Page 392.

oned

arrigi

int at

ed an

ting,

vards

Lords

nt of

at all

ayed

MOLL

flody

at no etters

rder,

Exa-

hing

rday,

Law

ns at

falle

Plea-

none

Daths

d of

t and

, and

e in

fed to

rl of

omp-

mfelh

like.

And

The next Day the Lords attended her Majesty with an Address of Address of Thanks, assuring her of their Concurrence in all Thanks. her Undertakings, that they would improve to the utmost the blessed Opportunity put into their Hands, and congratulated the Success of her Majesty's Arms under the Conduct

of the Duke of Marlborough.

December the 21st, The Lords address'd her Majesty that Another to seshe would give Orders for fortifying Newcastle, Berwick, cure the NorCarlisse, and Hull; and that the Militia of the four Northern Borders
thern Counties might be disciplined and provided with Arms,
and that a competent Number of regular Troops might be
kept upon the Northern Borders of England, and in the North
of Ireland, and that the Laws might be put in Execution for
disarming of Papists.

January the 17th, A Bill entitled, An Act to enable Wil-Bill to enable liam Henry Earl of Bath, during his Minority, to execute the the Earl of Bath Power of making Leases of his settled Estate, being offered to make Leases.

to be read; and a Debate arising thereupon,

After Debate, the Question was put, Whether the Bill of-

fered shall be now read?

It was refolved in the Negative. Contents 46; Not contents 19.

Diffentient'

^{*} Both Sides claimed the Victory, but the French left the Confederates Masters of the Sea, and retired to Toulon, so disabled that they were not able to quit that Port, all the next Year.

Anno 3 Annæ, 1704.

Diffentient'

For that the main Foundation, and greatest Motive for the Ulegislative Authority to intermeddle in the Settlement of pri-Protest thereon. vate Men's Estates, is the Defire and free Confent of all Parties concerned in the faid Settlement first had and obtained. and the Lord Granville, next Heir to the prefent Earl of Bath, having, in his Place in this House, declared that he conceived his Interest, in that Estate, to be prejudiced by this Bill, and that he could by no means give his Confent to it:

We do therefore humbly conceive, the receiving this Bill to be contrary to the usual Method of Proceeding in all Bills of this Nature; and therefore ought not to have been re-

ceived.

Wirchelfea, Craven, Granville, Rochester, Buckingham, C. P. S. Warrington, Nottingham, Guilford.

Bill for recruit-

March the 2d, Hodie 3ª vice lecta eft Billa, entitled An Ad ing Land Forces, for the better recruting her Majesty's Land-Forces and the Marines, for the Year 1705.

The Question was put, Whether this Bill shall pass? It was carried in the Affirmative.

Diffentient'

Protest thereon.

Because there is in the Bill this following Clause, viz. (That it shall and may be lawful for the Justices of the Peace of every County and Riding within this Realm, or any three or more of them, to raise and levy such able body'd Men, as have not any lawful Calling or Employment, or visible Means for their Maintainance or Livelihood, to ferve as Soldiers, for the Purposes in the Bill mention'd.)

Thanet, Anglesea, Dartmouth.

Die Mercurii, 14 Martii. It is ordered by the Lords spiritual and temporal, in Parliament assembled, that the Representation and Address this Day presented to her Majesty, with her Majesty's most gracious Answer thereunto, and the Thanks of this House for the same, together with the Papers annexed to the faid Representation and Address, and laid before her Majesty, shall be forthwith printed and published.

The Humble REPRESENTATION, &c.

Die Martis, 13 Martii, 1704.

Lords Reprefentation.

TE your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament assembled, are under an unavoidable Necessity of making our humble Application to your Majesty, upon an Occasion, which, as it is very grievous to us, so we fear it may be uneasy to your Majesty: But the Proceedings of the House of Commons, Commons, in relation to five Burgesses of the Town of Aylef Anno 3 Annas bury, John Paty, John Oviat, John Paton, Henry Baffe, and Daniel Horne, have been so very extraordinary, that the Consequences of such Proceedings may prove so fatal to the Properties and Liberties of the People of England, and fo directly tend to the Interruption of the Course of Justice, to the eluding the Judicature of Parliament, and to the Diminution of your Royal Prerogative, that we can't answer it to your Majesty, to the Kingdom, and to ourselves, without fetting them before you in a due Light.

One Matthew Ashby, a Burgess of the Borough of Aylesbury, brought an Action upon the Case at Common Law, against the Constables of the Town of Aylesbury (being the proper Officers to return Members to serve in Parliament for that Place) for having by Contrivance fraudulently and malicioufly

hindered him to give his Vote at an Election.

In this Action a Verdict was found for him; but Judgment was given against him in your Majesty's Court of Queen's Bench, which was reserved upon a Writ of Error brought in Parliament; where he obtained Judgment to recover his Damages for the Injury, and afterwards had Execution upon that Judgment.

The five Persons above mentioned, being Burgesses of the same Borough, and having (as they conceived) had the like Wrong done them by the Constables there, and, supposing the Law to be equally open to all Englishmen, did severally commence and profecute Actions against those Officers, in

order to recover their Damages.

And for so doing, they were fent for to the Bar of the House of Commons, and committed Prisoners to Newgate, the fifth Day of December last, during the Pleasure of the House of Commons, as having acted contrary to the Declaration, in contempt of the Jurisdiction, and in Breach of the

Privileges of that House.

These Proceedings are wholly new and unprecedented. It is the Birth-Right of every Englishman, who apprehends himself to be injured, to seek for Redress in your Majesty's Courts of Justice: And if there be any Power that can controul this Right, and can prescribe when he shall, and when he shall not be allowed the Benefit of the Law, he ceases to be a Freeman, and his Liberty and Property are precarious.

The Crown lays claim to no fuch Power; and we are fure the Law has trufted no fuch Authority with any Subjects

mi. all

ed, of

he

his

Bill

ills

re-

2m,

Aa

the

11%.

ace

ree

en,

ible

Sol-

6.

fpi-

Re,

fly,

the

ers

be-

the

em.

out 100,

un-

e of

ons,

d.

If a Man mistakes his Case, in believing himself to have a good Cause of Suit when he has not, it he mistakes his Court, by applying to an incompetent Jurisdiction, he will

fail

Anno a Annæ, fail of Relief, and be liable to Costs, but to no other Punish ment: He is not guilty of a Crime, nor is it a Contempt of

the Court that has the proper Jurisdiction.

But these Men were guilty of no Mistake; the Point of Law was fettled by the Judgment of that Court, which is allowed to be the last Resort, and this will continue to be the Law, till it be altered by the legislative Authority. faw their Neighbour quietly and unmolested reap the Fruit of the Judgment he had obtained; and yet, for pursuing the fame Remedy, they are condemned to an indefinite Impriforment, during the Pleafure of the House of Commons.

This Method does introduce an Uncertainty and Confusion, never before known in England. The most arbitrary Go. vernments cannot shew more direct Instances of Partiality

and Oppression.

The Point of Law is judicially fettled; and yet the Houle of Commons take upon them to punish Men by Imprison ment, for endeavouring to have the Benefit of what is foelablished for Law.

We humbly observe to your Majesty, that the first thing they alledged in the Warrant of Commitment, as to the Offence of these five Persons, is, that those Actions were brought contrary to a Declaration of the House of Commons.

It was never yet heard (when there was a House of Lords in being, and a King or Queen upon the Throne) that the House of Commons alone claimed a Power, by any Declartion of theirs, to alter the Law, or to restrain the People of England from taking the Benefit of it; nor have their Declarations any fuch Authority, as to oblige Men to submitto them at the Peril of their Liberty.

If they have such a Power in any Case, they may apply it to all Cases as they please; for when the Law is no longer the Measure, Will and Pleasure will be the only Rule.

The Certainty of our Laws is that which makes the chief Felicity of Englishmen: But if the House of Commons can alter the Laws by the Declarations, or (which is the fame thing) can deprive Men of their Liberty, if they go about to take the Benefit of them, we shall have no longer Refon to boast of that Part of our Constitution.

The next Thing alledged in the Warrant is, that the commencing and profecuting these Actions, was Contempt

of the Jurisdiction of the House of Commons.

Such a Jurisdiction was never claimed by the House of Commons, till upon this Occasion; and if this Novelty of 1 Jurisdiction be founded on their new Authority of declaring they will stand and fall together. The

The House of Commons have for a long Time exercised Anno 4 Anna, a Jurisdiction over their own Members, by allowing or disallowing their Elections, as they saw Cause: But they have hever before entertained a Notion, that they had a Jurisdic-

tion over their Electors, to determine (finally and exclusively of all other Courts) the particular Rights of those to whom

they owe their being.

nifh.

t of

nt of

h is

the

her

it of

the

pri-

fion,

Go-

ality

oufe

ifon-

efta.

hing

Of-

ught

ords

lara-

e of

De.

it to

lyit

nger

hief

can

ame

bout

Rea-

the

mpt

e of

ofa

ing,

The

Your Majesty's royal Writ commands, that the several Electors make Choice of Persons to represent them in Parliament, in order to do and consent to such Things as should be ordained there, relating to the State and Desence of the Kingdom and the Church, for which the Parliament is called: And they obey the Command, in proceeding to chuse Members for the Parliament then summoned; but neither the Writ which requires them to chuse, nor the Indenture by which the Return is made, import any thing whereby it may be inferred, that the Electors put into the Power of their Representatives, their several Rights of Elections, to be finally disposed of at their Pleasure.

It was an Interest vested in them by Law before the Election, and which the Law will preserve to them, to be exercised again in the like manner, when your Majesty shall be

pleased to call another Parliament.

It was not possible for the Electors to suspect, that such a Pretence would ever beset up by their Representatives, when, in the course of so many Ages, the House of Commons had never taken upon them to try or determine the Right of any particular Elector, unless incidently, and only in order to decide a Question, of the Title of some Member of their

own House to fit amongst them. The Right of Election is a legal Interest incident to the Freehold, or founded upon Custom, or the Letters Patents of your Majesty's Royal Ancestors, or upon particular Acts of Parliament, and must be tried and determined like other legal Interests: And this Consideration does manifestly shew the Absurdity of pretending, that such Rights can be decided by the House of Commons, where there is neither a Power of administring an Oath, in order to discover the Truth, nor a Power of giving Damages, which is the only Reparation the Elector is capable of receiving in such a Case. Therefore, if the Electors, when they are deprived of their Rights, have no Place to refort to, but the House of Commons, the Right of Election would be a Right without a Remedy, which indeed is no Right at all.

And it is put into the Power of the Officers, who have the Return of Members to serve in Parliament, to reject the Votes of as many Electors as they please, without being lia1704.

S ble

Anno 4 Annæ, ble to make any Reparation in Damages to the Parties,
which is a Notion not very likely to preserve the Freedom
and Impartiality of Elections.

The third Thing alledged against these Men in the War rant of Commitment is, that by bringing these Actions they have broken the Privilege of the House of Commons.

A Ereach of the Privileges of Parliament is certainly a great Offence; and, of all others, the House of Lords ought to be the last who should go about to lessen or excuse it, a having a like Interest with the Commons in the Preservation

of the Privileges of Parliament.

But however it might seem the Interest of the Lords to be filent, while the House of Commons are setting a for new Pretences of Privilege, because they may share in the Advantage; yet we think it our Duty and our Interest, to do all we can to preserve the Constitution entire, and not to fit quiet when we see Innovations attempted, which tends the Diminution of the Rights of the Crown, or to the Prejunce of the Subject: Because the best and surest way to preserve the rightful Privileges of Parliament, is to abidely those that are certain and known; and it is not in the Power of either, or both Houses, to create new Privileges themselves.

It never was thought a Breach of the Privileges of Parliament, to profecute an Action against any Man, who was not entitled to Privilege of Parliament; and therefore since the Constables of Aslesbury had no Privilege of Parliament, at the Time when those Actions were commenced or prosecuted, we cannot imagine, upon what Foundation the pursuing these Actions can be voted a Breach of Privilege by the House of Commons.

Rule this Pretence is grounded, that the People of Englad may be at a Certainty, and fee fome Limits fet to the Claims of Privilege. To ferve the Turn, it hath been faid, there are privileged Cases, as well as privileged Persons; but Indiance has been produced, whereby this Distinction can't

applied to jullify these Commitments.

Actions at Common Law have been brought upon file Returns and double Returns of Members to serve in Pathament, as in the Cases of Sir Samuel Barnardiston and Mr. Onstore, which proceeded to Judgment, and a Writ of Emwas brought in one of them, and the Plaintiffs could me prevail in either of those Suits; and yet it was never proteined, that the commencing or profecuting those Actions was a Breach of Privilege of Parliament; nor were the Performs concerned in them imprisoned or censured, tho that was a much greater Colour for such a Pretence in those

Cases, because the Question there directly concerned the Anno 4 Annæ, Right of sitting in Parliament; and consequently those would have been indeed privileged Cases, if any such Dissinction had been once thought of in those Days: Whereas in the Actions brought by these five Men, neither the Plainiss nor Desendants were Members of Parliament, nor did the Actions relate in any manner to the Right of sitting there.

The Opinion of the House of Commons, at that time,

vas very different from what it is now.

es;

ar-

hey

ly a

ight

t, as

tion

s to

foot

the

t, to

ot to

d to

Pre-

y to

e by

the

es to

rlia-

s not

e the

at the

, we

thele

ife of

what

gland

aims

t here

ut no

an be

falle

arlia-

Mr.

Error

d not

r pre-

aions

e Per-

there

those Cafes,

When the Judgment of the King's-Bench (where Sir Matthew Hale fat then Chief Justice) which passed in Faour of Sir Samuel Barnardiston, that the Action was mainainable, was reserved in the Exchequer-Chamber, the House f Commons was fo far from thinking it for their Advansge, to have their Members deprived of the Benefit of the Common Law, that in the Year 1679, a Committee was apointed to enquire touching the reverfing that Judgment. nd by whose Procurement and Solicitation, and by what Vays and Means, the same was reversed, and the Names f the particular Judges that were concerned: And when ferwards that Judgment in the Exchequer-Chamber was afmed in Parliament, the House of Commons never thought hemselves secure against the Corruptions of the Officers, ho were to take the Poll, and make Return at Elections, Il they had got an Act in the seventh and eighth Years of he late King, which gave a Remedy in Westminster Hall or file and double Returns; fo little contented were they, their own Cases, with the Jurisdiction of the House of commons, and the Remedy to be had there, which now tey so hercely contend their Electors should entirely acvielce in : And we cannot but think it manifest Partiality those Gentlemen, to go about, by such violent Means, to prive their Electors of recovering of Damages, when they re wronged in being deprived of giving Votes, fince they ought it necessary for themselves to have that Advantage, hen they are injured in their own Elections.

The Sufferings of these unfortunate Men have not ended etc, and the Rights of the free-born Subjects of England we received a further and no less dangerous Wound, in

eir Persons.

These sive Men having endured a long and chargeable approximent, and despairing of their Liberty any other say, were advised to sue out Writs of Habeas Corpus, remable in your Majesty's Court of Queen's-Bench, hoping obtain their Discharge by the Help of that Court, where e Judgment ought to be given according to the Laws of

Anno 4 Anna, the Land, without regard to any Votes, or Declaration, or Commands to the contrary : But this Endeavour proved un. fuccessful, and they were remanded to Newgate by three of the Judges of that Court, contrary to the Opinion of the

Lord Chief Justice Halt.

We shall not presume to offer any Opinion to your Majesty, upon Occasion of this Judgment, at prefent, became it is not regularly brought before the House; and we only mention it, because the House of Commons took such Offene at the bringing these Writs of Habeas Corpus, that, on the 24th of February last, they voted, that whoever had abened promoted, countenanced, or affilted the Profecution of those Writs, were Disturbers of the Peace of the Kingdom, and had endeavoured, as far as in them lay, to overthrow the Rights and Privileges of the Commons in Parliament.

This is a heavy Charge; and if it be so criminal a thing for a Prisoner to pray a Habeas Corpus, it does not only affed those who are at present concerned, but ought to touch ever Commoner of England, in the most fensible manner.

Liberty of Person is, of all Rights, the most valuable; and of which, above all other things, the Law of England is most tender, and has guarded with the greatest Care, having provided Writs of several kinds, for the Relief of Men restrained of their Liberty, upon any Pretence, orly any Power whatfoever; that fo in every Cafe they may have some Place to resort to, where an Account may be takend the Reason and Manner of the Imprisonment, and the Subject may find a proper Relief according to his Cafe.

No Crime whatsoever does put an Englishman into h miserable a Condition, that he may not endeavour, in the Methods of Law, to obtain his Liberty; that he may my by his Friends and Agents, fue out a Habeas Corpus, and han the Affistance of Solicitors and Council, to plead his Cant before the Court where he is to be brought.

The Court is bound by the Law to affign him Council if there be Occasion, and to give Judgment upon his Call as it stands upon the Return of the Habeas Corpus, and hare the Affistance of Solicitors and Council, to plead his Caus

before the Court where he is to be brought.

The Court is bound by the Law to affign him Council, there be Occasion, and to give Judgment upon his Case, " it stands upon the Return of the Habeas Corpus, and to the mand, discharge, or bail the Prisoner, as the Cause of in Commitment appears there sufficient or insufficient in Lavi and if what is alledged as the Cause of Imprisonment ap pears to be no Crime in Law, it is not the Authority those who made the Commitment, that can excuse the Court for remanding the Prisoner.

This is the Law of England: But, according to these Anne, Resolutions of the House of Commons, if a Man has the Unhappiness (tho' through Ignorance or Mistake) to do an Act which shall be voted a Breach of Privilege, he becomes in a worse Condition than any Felon or Traitor; his Confinement makes it impossible for him, in Person, to solicite and procure a Habeas Corpus, and, if any have Charity enough to affift him, or to plead for him, in order to shew to the Court the Insufficiency of the Committment in Matter of Law, they become liable to lose their own Liberty. and are involved in the same Guilt of Breach of Privilege: So that let the Imprisonment be upon the most trifling Occasion imaginable, if it be by Order of the House of Commons, every Commoner must submit to it, without Redress. no Friends can help them, no other Authority can deliver them, till your Majesty shall put an End to that Session.

The Lords have as just a Concern, as the House of Commons can have, to maintain the Authority, and keep up the Awe of parliamentary Commitments: And they will always do it, as far as Justice and the Usage of Parliaments will al-

low

d'un.

ee of

the

Ma-

canfe

only

Tence

n the

etted,

those

and

v the

hing

affed

every

able;

are,

ef of

or by

have

en of Sub-

0 10

the

not,

auf

ncil,

have

ant

il, #

, 25

aw;

There have been Cases, particularly that of the Earl of Shaftsbury, where Persons committed by the House of Lords, even Members of that House, have sued out Writs of Habeas Corpus; and upon the Returns of those Writs, have been brought before the Court of King's-Bench, and their Council have been heard on their Behalf; and yet no Censure ever passed upon them for these Endeavours to obtain their Liber-

ty, or upon their Agents, Solicitors, or Council.

The House of Commons formerly acted with more Referve upon so nice an Occasion, as the Liberty of the Subject; for in the Year 1680, when a Writ of Habeas Corpus was served upon the Serjeant at Arms attending the House of Commons, in the Behalf of Mr. Sberidan, who stood committed by Order of that House; after the House was made acquainted, that such a Writ was served upon their Officer, and had entered into very long Debates upon the Matter, they did not think sit to interpose, nor pass any Censures upon the Persons concerned in procuring the Writ, or in appearing in Behalf of the Prisoners; but left the Serjeant at Arms at liberty to obey the Command of the Habeas Corpus; which he did accordingly, by carrying his Prisoner before the Judge, where the Habeas Corpus was returnable.

The House of Commons have, in former Ages, shewn a great and steady Concern for the Freedom of the Persons of their Fellow-Subjects; and upon their Petitions many excellent Laws have been made, to protect Liberty against all

unlawful

Anno 4 Annæ, unlawful Restraints by any Authority, even that of the Crown: But now it is infifted that their own Imprisonments are out of the reach of those Laws, and their Legality not to be examined.

In the third Year of the Reign of your Royal Grandfa. ther, the House of Commons made a noble Stand for the Em. lift Liberties, and shewed, by undeniable Evidence, that the Causes of the Imprisonment must be expressed in all Cases, that so it might appear, upon the Return of the Habeas Cor. pus, whether they were sufficient in Point of Law.

It could not then have been imagined, that the Succession of those Men would ever have pretended to an arbitrary and unlimited Power of depriving their Fellow Subjects of their Liberties, or to vote it to be criminal so much as to enquire

into the Validity of their Commitments.

There is another Occasion of Offence, which the House of Commons have taken against John Paty and John Oviat, two of these Prisoners, who thinking themselves wronged in their being remanded to Newgate, by the Opinion of the ma. jor Number of the Judges of the Court of Queen's-Bench, hum. bly petitioned your Majesty for a Writ of Error, in order to bring this Judgment before your Majesty in Parliament; and it is certain the Subject is never concluded by any Judgment, till he comes to the last Resort fixed by the Law in this Case.

The House of Commons being informed of these Petitions, came to a Resolution, which they laid before your Majesty, that the Commitments of that House were not examinable in any other Courts whatfoever; that no Writ of Error lay in this Case; and that as they had expressed their Duty to your Majesty in giving Dispatch to the Supplies, so they had an entire Confidence in your Majesty, that you would not give leave for the bringing any Writ of Error.

The first Position in this Vote is very general, and the Consequences of it are plain; if the Commitments of the House of Commons are examinable in no other Place, then no Man in England, how infolent soever, is secure of his Liberty longer than the House of Commons pleases; and Men may be allowed at least to wish that it were not so, tho' they may have a very high Opinion of the Justice of that House.

It has been held as an undeniable Maxim, that whoever executes an illegal Command, to the prejudice of his Fellow-Subjects, must be answerable for it to the Party grieved.

Let it be supposed then, that an Action of false Imprison. ment was brought against the Serjeant of the House of Commons, and that the Defendant justifies his taking the Plaintiff. into Custody, by virtue of a Warrant of that House, and it appears upon the Face of the Warrant, that the Caufe of the

Commitment was no Crime in Law, and the Plaintiff demurs, Anno 4 Auna, what must rhe Judges do in such a Case? Will it be possible for them to avoid examining into the Commitment, and fo give Judgment one way or other? Or can it be pretended, that a Writ of Error may not be brought upon fuch a Judgment? And is not the Court, before which the Writ of Error is brought, under a Necessity to do Justice thereupon, as the

Law requires?

.

r

of.

.

P.

d

10

en

er

W.

n.

n-

As to the fecond thing they have taken upon them to affert, that no Writ of Error lies in the Case, we affirm to your Majesty with great Assurance, that, by our Constitution, the House of Commons have no Right or Pretence to determine whether that be so or not, the Right of Judgment when a Writ of Error is properly brought, is by Law entrusted to that Court to which the Writ of Error is directed; and therefore we shall not at present say any thing to your Majesty, in an extrajudicial way, and before the proper Time, as to that Point, whether a Writ of Error brought upon a Judgment for remanding Prisoners upon a Habeas Corpus, can be main-

Which way that Question will be decided hereafter, when the Writs of Error are returned into the Parliament, is not at all material, in respect to the Petitions of the Prisoners which now lie before your Majesty: For, unless your Majefly be pleased to grant the Writs of Error according to their Prayer, the Matter cannot come to the proper Decision in Parliament, and Justice will be manifestly obstructed.

Whether the Writs of Error ought to be granted, and what ought to be done upon the Writs of Error afterwards, are very different Things. The only Matter under your Majesty's Consideration is, whether, in Right and Justice, the Petitioners are not entitled to have the Writs of Error

granted.

We are sure, the House of Commons, in the Year 1689, were of Opinion, that a Writ of Error, even in Cases of Felony and Treason, is the Right of the Subject, and ought to be granted at his Defire, and is not an Act of Grace and Favour, which may be denied or granted at Pleasure: So that as far as the Opinion of the House of Commons ought to have weight in such a Question, (whatever the present Opinion of that House is) they then thought a Writ of Error was the Right of the Subject in capital Cases (where only it had been at any time doubted of.)

But that it is a Writ of Right in all other Cases, has been affirmed in the Law-Books, is verified by the constant Practice, and is the Opinion of all your present Judges, except

Mr. Baron Price, and Mr. Baron Smith.

Anno 4 Anna, 1704.

The Law, for the better Protection of Property and Liberty, has formed a Subordination of Courts, that Men may not be finally concluded in the first Instance: But this is a very vain Institution, if they be left precarious in the Methol of coming to the superior Court.

All Suits are begun, as well as carried on, by the Authority of your Majesty's Writs, and the Subject has a like be

gal Claim to all of them.

The Petition for a Writ of Error returnable in Parliament, is only Matter of Form, and Respect to your Majesty, slike the Petitions which the Speaker makes in the Name of the Commons, at the Beginning of every Parliament, for those Privileges which they do not believe to depend upon the Answer to those Petitions) and is no more to be resuled than any other Writ throughout the Cause.

To affirm the contrary, is to allow an arbitrary Latinde to intercept Justice, and to make it depend upon private Advices, and extrajudicial Determinations, whether any Cause at all shall be brought to Judgment before the High Count

Parliament.

These Things being considered, how extremely surprizing is an Address from such a Body as the House of Common, that your Majesty would not give Leave for such a Writ?

And no less surprizing is what they infinuate, as the Refon of their Confidence in your Majesty, that you would hearken to such an Address, that they have given Dispute to the Supplies: They proceeded surely in the Matter of the Supplies, with a nobler Aim, for the Safety of your Majesty's Crown and Person, and for the delivering the Kingdom from the Oppression of French Power, employed to the an unjust Pretender upon your Majesty's Throne.

These are good Reasons for disposing of the People Money. Their Liberties, and all that is valuable to them, depend entirely upon the good Success of the War; and they have used, in all Ages, to part freely with their Money, for the Desence of their Liberties and Properties, and the money of the deservices and Properties.

moving of Grievances and Oppressions.

But this is the first Time a House of Commons have mile use of their having given the People's Money, as an Argment why the Prince should deny Writs of Right to the Subject, obstruct the Course of Justice, and deprive them of their

Birth-Rights.

On the twenty fixth of February, the House of Common proceeded to carry on their Resentments to greater Extremities, and voted, that the Gentlemen who pleaded as Conteil for the five Prisoners, upon the Returns of the Writed Habeas Corpus, and the Agents and Solicitors who applies

them, were guilty of a Breach of Privilege, and ordered Anno 4 Annæ, them to be taken into Custody, which Order has been excuted.

This feems to be so great an Excess, that it is hard to find Words proper for expressing it. When Gromwell committed Mr. Maynard to the Tower, for affisting one Coney as his Council, upon a Habeas Corpus, a celebrated Author expresses the Detestation due to such a Fact, in these Words: It was the highest Act of Tyranny that ever was seen in England: It was shutting up the Law itself close Prisoner, that no Man might have Relief from, or Access to it.

6

nt,

ke

ole

the

nan

ode

Ad-

to

zing

Ons,

1

Rei-

plaor

atch

fthe

faje-

ling-

to let

ople's

them,

d they

y, for

Argu-

f their

mmoss

etrem!

Coun-

Vrits of

affifted

them,

But as strange and unjustifiable as this appears, we beg leave to take notice of another Thing yet more irregular (if it be possible:) While the Matter was depending before your Majesty, upon the Petitions for Writs of Error; after the House of Commons had made an Address to your Majesty, that you would not give Leave for the bringing Writs of Error; after your Majesty had, by your gracious Answer, fignified to them, " That this Matter, relating to the Course of judicial Proceedings, was of the highest Importance, and therefore your Majesty thought it necessary to weigh and confider, very carefully, what was proper for you to do;" and after they had voted to take this very Answer of your Majesty's into Consideration: The Day following, they ordered the five Prisoners to be removed from Newgate, and taken into the Custody of the Serjeant at Arms attending the House of Commons; and this Order was executed at Midnight, with fuch Circumstances of Severity and Terror, as has been feldom exercised towards the greatest Offenders.

Your Majesty is the only proper Judge how highly difrepectful this Action is to your Royal Person and Authority.

But it concerns us to fay, that such a Proceeding tends liredly to the depriving the Petitioners of that Justice, which hey were endeavouring to obtain by Means of the Writs of Error.

While your Majesty was deliberating how to put an End to Matter, which they only had made difficult by an unreasonable Address, the House of Commons rightly apprehended, that Justice would prevail with your Majesty over all other Considerations and therefore (as far as possible to dispoint the Prisoners, of the Fruit they expected from these Writs of Error when granted) they transferred them, in the nean time, to another Prison.

This Practice of removing Prisoners from one Custody to nother hath been ever complained of, as manifest Oppression, and most evidently destructive of the Liberty of the subject: It is a Mischief provided against in express Words, 1704.

1704.

Anno 4 Anna, by the Act made in the Reign of your Royal Uncle Rim Charles the Second, for the better fecuring the Liberty of the Subject; that if any Person, being a Subject of this Reals. shall be committed to any Prison, or in Custody of any Of. ficer whatfoever, for any criminal, or supposed criminal Matter, that the Person shall not be removed from the fait Prison or Custody, into the Custody of any Officer (unless) be by a Habeas Corpus, or some other legal Writ;) and this upon the great Penalties mentioned in that Act. The Penal ties in the Act were new, but the Law of England was the fame before the making it. The shifting of Men from our Prison to another, while they are using Means in Coursed Law to recover their Liberty, is inexcusable Cruelty, and against the plain Rules of natural Justice; for by such Artifices, Imprisonments, however unlawful, might be made per petual, and the Subject, as he was at the Point of being di charged from one Prison, might be, without end, removed to another.

> May it please your Majesty, your dutiful Subjects, the Lords spiritual and temporal, were so solicitous to avoid any thing, which might give a Pretence to interrupt the neck fary and early Provision for the War, in order to improve the wonderful Successes God had given to your Arms; the tho' they were fensible the Imprisonment of these Men, in the Manner, and upon the Pretences abovementioned, was manifest Attempt to elude the Judicature of Parliament, and pernicious Example, to the Liberty and Property of the Sal ject, yet they forbore to take Notice of it, 'till they were in a manner enforced by Petitions from the Prisoners, prefented the twenty fourth of February last, and by the unjust fiable Proceedings of the House of Commons the same Di which we have already mentioned to your Majesty.

But then the Lords found it absolutely necessary, to come into a Confideration of the whole Matter, as it appeared them, and upon the twenty seventh of February they can to the following Resolutions:

Resolved, That neither House of Parliament have Power, by any Vote, or Declaration, to create to themselves at Privileges, not warranted by known Law and Custom d Parliament.

Resolved, That every Freeman of England, who approhends himself to be injured, has a Right to seek Redn by Action at Law, and that the commencing and profecuting an Action at the Common Law, against any Person, who not entitled to Privilege of Parliament, is no Breach of the Privilege of Parliament.

Resolved

Resolved, That the House of Commons, in committing Anno 4 Annæ, to the Prison of Newgate, John Paty, John Oviat, John Paton, Henry Baffe, and Daniel Horne, for commencing and profecuting Actions at the Common Law, against the late Constables of Aylesbury, for not allowing their Votes in the Election of Members to serve in Parliament, upon pretence, hat their so doing was contrary to a Declaration, a Contempt of the Jurisdiction, and a Breach of the Privilege of that House, have assumed to themselves alone a legislative Power, y pretending to attribute the Force of a Law to their Delaration, have claimed a Jurisdiction not warranted by the Constitution, and have assumed a new Privilege, to which hey can shew no Title by the Law and Custom of Parlianent, and have thereby, as far as in them lies, subjected he Rights of Englishmen, and the Freedom of their Persons, the arbitrary Votes of the House of Commons.

Resolved. That every Englishman who is imprisoned by ny Authority whatsoever, has an undoubted Right, by his gents or Friends, to apply for, and obtain a Writ of Haeas Corpus, in order to procure his Liberty by due Course

King

of the

ealm.

y Of.

minal

e faid

lefs it

d this

Penal-

is the

m one

irle of

, and

Arti-

e per-

g dif-

mova

s, the

id any necel-

prove

; that

en, in

Was a

ando

e Sub-

y were

, pre-unjuti-

e Day,

o enter

ared m

/ Came

Power,

es ner

tom d

appre-Redress

ecutin

who !

of the

e folved

Refolved, That for the House of Commons to censure or unish any Person, for affishing a Prisoner to procure a Writ Habeas Corpus, or by Vote, or otherwise, to deter Men om foliciting, profecuting, or pleading upon fuch Writ of labeas Corpus, in Behalf of such Prisoner, is an Attempt dangerous Consequence, a Breach of the many good States provided for the Liberty of the Subject, and of pernious Example, by denying the necessary Assistance to the rifoner upon a Commitment of the House of Commons, hich has ever been allowed upon all Commitments, by any uthority whatfoever.

Resolved, That a Writ of Error is not a Writ of Grace, at of Right, and ought not to be denied to the Subject, hen duly applied for, (tho' at the Request of either House Parliament) the Denial thereof being an Obstruction of

istice, contrary to Magna Charta.

These Resolutions were delivered to the Commons at a onference, the twenty-eighth of February, and they took ne to consider of them 'till the seventh of March; upon hich Day, at their Desire, a second Conference was had, d tho' it was too apparent by what was delivered by the ommons at that Conference (which confifted of injurious: vectives against the House of Lords, and tedious Recitals Precedents, in no fort applicable to the present Subject of ebate) that their Defign was either to provoke the Lords such a degree, as might necessitate them to break off all Cor-

T 2

Anno 4 Anna, Correspondence, or by engaging them in new Matters, to draw things to fuch a length, as might prevent the bringing these Debates to any Issue during the Session : Yet the Lords immediately defired a free Conference, which was afterwards had with the Commons

We are so defirous that your Majesty should be made falls acquainted with all the Paffages relating to this Dispute be tween the two Houses, that we humbly beg leave to anner to this our Representation, what passed at the first and fecond Conference; and also (as far as we have been capable of recollecting in fo short a time) the Substance of what was faid at the free Conference, and in our Debates, in maintainance of the Resolutions of the House of Lords,

But we take it to be a Duty necessarily incumbent on us, to observe to your Majesty, the Manner in which we have been treated by the House of Commons, at these Conferences; fo that from thence your Majesty, according to your great Wisdom, may judge to what such Proceedings do naturally They told us, that the Judicature of the House of Lords was unaccountable in its Foundation, and inconfilent with the Constitution : If they mean it is so antient, that no Account can be given of its Foundation, 'tis true; but there is Reason to believe it began with the Monarchy, and we are fure it has continued without Interruption, unless dering that unhappy Interval, when a pretended House of Commons destroyed the Church and the Monarchy, as well as the House of Lords: As many Ages as the Constitution of the English Government has lasted, this Judicature has confisted with it, and formed a noble and necessary Part of it, and therefore the'e Gentlemen will hardly be believed, against so long an Experience, that it is inconfisent with the Constitution.

They also charged the Lords in direct Terms, with uluping the hearing Appeals, with making Advances upon the Conflitution, with contriving to bring Liberty and Property into the bottomless and insatiable Gulf of the Lords ludice ture, and with direct Reproaches, as to the Manner in which that Judicature has been exercised, and in the most contemptuous Way told us, they forbore to mention the Inflance, because they hoped we would reform.

We defire no other Judge but your Majesty, how sacht Treatment of us becomes these Gentlemen; and we dat appeal to all your Subjects, for Witnesses of the irreproach able manner of administring Justice in the House of Lord

We hope the great Displeasure the House of Common has conceived against us may prove of some real Service, and of useful Caution to your Majesty, for it has drawn them diredly ters, to

ringing

e Lords

rwards

le fully

ute be.

annex

and fe-

apable

nat was

main-

on us,

e have

rences

great

turally

ule of

nfiftent

t, that

y, and

els du-

ufe of

s well

itution

re has

lieved,

t With

ulorp.

operty udica-

which

temp-

ances,

ach a

dare

oach.

ords.

mons

them

really

directly to own (what was but too visible before) that they Anno 4 Anna, are aiming at more Power, and a larger Share of the Administration, than is trusted with them by the Nature of our Government. They directly complained, that by the Conflitution, the Judicature, in the last Resort, was not placed in the fame Hands with the Legislature, tho' they cannot flew it to be fo, in any Country where the Government is not arbitrary, and the Prince's Will the Law: They have been long endeavouring to break in upon the Lords Share in the Legislature, of which we could mention too many Instances to your Majesty. From an antient Claim, that Aids to the Crown are to begin in the House of Commons, and that the Lords could not alter the Sums, they have of late Years pretended (but without any Reason, and against the known Usage of Parliaments) that we could make no Alterations in any Part of a Money-Bill, tho' it have no relation to the Money: And, upon that foot, when they have had a mind to get any thing passed into a Law, of the Reafonableness of which they have despaired to convince the Lords, they have tacked it to a Money-Bill, in order to put the Crown and the Lords under that unhappy Necessity, either to agree to a Law they might think prejudicial to the Public, or to lose the Money, which perhaps, at that Time, was absolutely necessary to the faving the Kingdom.

By this Method they assume to themselves the whole legiflative Authority, taking in effect the negative Voice from the Crown, and depriving the Lords of the Right of deliberating upon what is for the Good of the Kingdom: For this Reason the Lords had, in a very solemn manner, refolved never to suffer such Impositions for the future, let the Importance of the Bill be never fo great. This Resolution was well known, and yet in this present Session (as appears by the printed Votes of the 28th of November last) a great Number of the Gentlemen of the House of Commons, to the manifest Danger of disappointing the Supplies of the Year, which must have been the Ruin of the whole Confederacy, and delivering up of Europe into the Hands of France, made an Attempt to tack to the I and Tax a Bill which had been rejected in two preceding Sessions of Parliament.

Thus the House of Commons have formerly set on foot several Attempts, against that Share in the Legislature which is placed in the Lords: But this is the first time they have published their Desire, to be let into the Judicature of Parliament.

Whatever they would infinuate upon this Occasion, we defire not to meddle with the Choice of the Commons-

Anno & Anna, Representatives, we willingly leave that Matter where it is and in what manner it is exercised there; how impartially and how fleadily, is fo well know by Experience to most Parts of the Kingdom, and so universally understood, that the People will be extremely desirous their Estates and Pro.

perties should be subject to such Determinations.

It is not strange the free Conference ended without Sur. cefs, when the Commons came to it with fuch a Temper, as appears by the Votes of the 8th of March, made after they themselves had consented to the free Conserence. If those Votes had been published foon enough, it would have fully convinced the Lords, how vain a thing it was to confer with them further, upon the Matters in Debate at the former Con. ferences; for, not content with what they had done before. upon Information that their Serjeant had been ferved with two Writs of Habeas Corpus, returnable before the Lord-Keeper (Wright) in behalf of Mr. Montagu and Mr. Denton, two of the Gentlemen who had been of Council with the five Prifoners, they came to a Resolution, that no Commoner, committed by them for Breach of Privilege, or Contempt of the House, ought to be, by Habeas Corpus, made to appear before any other Judicature, and required their Serjeant to make no Return, or yield any Obedience to those Writs; and that for fuch Refusal he had the Protection of the House of Commons.

It has been always held the undoubted Prerogative of the Crown, to have an Account of the Reason why any Subject is deprived of Liberty, and it has ever been allowed, that, by the known Common Law, it is the Right of every Subject under Restraint, upon Demand, to have his Writ of Habeas Cortus, and thereupon to be brought before fome proper Court, where it may be examined, whether he be detained for a lawful Cause: And the Statutes made in the Reign of your Royal Grandfather, and your Royal Uncle, have enacted, that in all Cases, Writs of Habeas Corpus be granted and obeyed, by the respective Officers, upon great Penalties.

But these Votes import a direct Repeal of those Laws, as

to all Persons committed by the House of Commons.

It is no longer worth disputing, whether a Person committed by them, tho' for a Fact which appears to be both lawful and necessary, may be delivered by any Court; for by this new Law he shall never be brought thither, and the Serjeant is not only warranted, but commanded openly to contemn your Majesty's Royal Writs of Habeas Corpus, brought upon the Act of 31 Charles II. which is an Invasion of your Prerogative, never before heard of in England.

Your Majesty does not claim an Authority to protect any of your Officers for disobeying a known Law. The Habeas

Corpus

Corpus Act, in time of imminent and visible Danger, was in the Anno 4 Annue, late Reign suspended by Acts of Parliament for some short time, and yet (so facred was that Law held) that those Acts passed with great Resuctancy, and one of the Arguments that prevailed most for agreeing to that temporary Suspension was, that it would be an unanswerable Evidence to all suture Times, that this Act could never be suspended afterwards, by any less Authority than that of the whole Legislature. But we live to see a House of Commons take upon them to suspend this Law by a Vote.

They ordered, that the Lord Keeper of your great Seal should be acquainted with their Resolutions, to the end the Writs of Habeas Corpus may be superfeded, as contrary to Law, and the Privileges of their House. They are contrary to no Law, but that of these Votes, which surely are none of the Laws the Lord Keeper was sworn to observe: But yet he is to act at his Peril. They have ordered this Law to be

published to him by their Clerk.

at is,

tially

most

that

Pro-

Suc.

r, as

hose

fully

vith

ore, vith

per

of

Pri-

m-

the

ore

no

for

3.

he

by

25

ed

ıd

15

The Lord Keeper is a Commoner, and if he disobeys, 'tis a Breach of Privilege; and if they should carry it it so far, as to order him into Custody, he may seek, but is not to have

Relief from any Habeas Corpus.

We humbly beg Pardon of your Majesty for this long and melancholy Representation, which we could not avoid, without being guilty of Treachery to your Majesty, and to our native Country. The five Persons immediately concerned are but poor Men; but we well know your Majesty's Justice and Compassion extends itself to the meanest of your Subjects.

The Matters in diffpute are of the highest Consequence: Your Majesty's Prerogative, the Reverence due to Laws, and the Liberties and Properties of all the People of England are concerned, and at stake, if these Encroachments prevail.

We do not pretend to follicite your Majesty to put a Stop to these Innovations, your own Wisdom will suggest the most proper Methods: We have endeavoured to do our Duty, in

laying the whole Matter before you.

We humbly beg leave so far to resume what has been said, as to present your Majesty a short View of the unhappy Condition of such of your Subjects, as have Right of giving Votes for chusing Members to serve in Parliament, which has been hitherto thought a great and valuable Privilege; but, by the late Proceedings of the House of Commons, is likely to be made only a dangerous Snare to them, in case they who may be hereaster chosen to serve in Parliament, shall think sit to pursue the Methods of this present House of Commons.

Anno 4 Annæ,

If they refrain from making use of their Right in giving their Votes, they are wanting in their Duty to their Country, by not doing their Parts towards the chusing such Representatives as will use their Trust for the Good of the Kingdom, and not for the Oppression of their Fellow-Subjects.

fi

E

6

t

If the Officer, who has the Right of taking the Suffrage, refuse to admit them to give their Votes, they must either fit down by it, and submit to be wrongfully and maliciously deprived of their Rights; or if they bring their Actions at Law, in order to affert their Rights, and recover Damages for the Injury (as all other injured Men may do in like Case) they become liable to imdefinite Imprisonment, by incurring the Displeasure of those who are elected.

If, being thus imprisoned, they feek their Liberty by Haban Corpus, (the known Remedy of all other Subjects) they do not only tie their own Chains faster, but bring all their Friends and Agents, their Solicitors and Council, into the same Mil.

fortune with themselves.

If they think themselves to have received Injury by the Judgment upon the Habeas Corpus, and seek Relief by Wint of Error, (the known Resuge of those who suffer by any wrong Judgment) all that assist them in that matter, are likewise to lose their Liberties for it, and they themselves will be removed to new Prisons, in order to avoid the Justiced the Law.

We humbly conclude with acquainting your Majefty, that we have been informed, by the Petition of two of the Priforers, that they have been long delayed, tho' they have made their Applications in due manner for Writs of Error: We are under a necessary Obligation, for the sake of Justice, and afferting the Judicature of Parliament, to make this humble Address to your Majesty, that no Importunity of the Hout of Commons, nor any other Consideration whatsoever, may prevail with your Majesty to suffer a Stop to be put to the known Course of Justice, but that you will be pleased to gitted effectual Orders for the immediate issuing of the Writs of Error.

To which her Majesty was pleased, the same Day, to turn the following most gracious Answer:

My Lords,

Queen's Answer. "

Should have granted the Writs of Error defired in this Address: But, finding an absolute Necessity of putting

"an immediate End to this Seffion, I am fenfible ther could have been no further Proceeding upon that Matter."

Ordered, by the Lords spiritual and temporal in Parliament assembled, that the humble Thanks of this House to presented

Vote of Thanks.

presented to her Majesty, for her most gracious Answer, in Anno 4 Anna, which she has expressed so great a Regard to the Judgment of this House, so much Compassion to the Petitioners, and such Tenderness to the Rights of the Subject.

The same Day the Queen came to the House, and put an Parliament pro-

End to the Sessions, with a Speech to both Houses, (which rogaed.

see in Chandler's History, Anno 3 Annæ, 1704, Page 441) and the Lord Keeper prorogued the Parliament to Tuesday

the first of May, which put an End to this Affair.

try;

om,

ger,

ther

oully

os at

ales

Ting

ibeas

y do

ends

Mif-

the

Writ

any like-

will

ce of

that

made We , and

mble

House may

o the

give

its of

10 It-

n this

itting

there

tter."

arlia.

ife be

ented

Soon after which the Duke of Newcastle was made Lord Promotions. Privy-Seal, in the Room of the Duke of Buckingham, Charles Earl of Peterborough, and Hugh Lord Cholmondley, were sworn of the Privy Council; the Earl of Montagu was made Duke of Montagu; the Lord Cutts Commander of her Majesty's Forces in Ireland under the Duke of Ormond; Dr. Wake, Bishop of Lincoln, in the Room of Dr. Gardner, deceased; and Dr. Bull, Bishop of St. David's, in the Room of Dr. Watson, who was deprived. There were also several Alterations in the Lieutenancy, &c.

Our Adventures this Year in Flanders proved not so surprizing as was expected: His Grace the Captain General making an ineffectual March to the Moselle, and asterwards forcing the French Lines at Tirlemont, without obtaining any

extraordinary Advantages in confequence.

In April the Parliament was diffolved, and a Proclamation was fet forth for calling another; which, being

The Second Parliament of Queen ANNE,

ET at Westminster, October the 25th, and on the 27th her Majesty made a Speech to both Houses (to be found in Chandler's History, Anno 4 Annæ, 1705, Page 442;) in Answer to which the Lords, on the 31st, returned the Address following:

E your Majesty's most dutiful and loyal Subjects, Lords Address the Lords spiritual and temporal in Parliament as of Thanks. Sembled, beg leave to make our humble and sincere Acknowledgments to your Majesty, for your most gracious

Speech to both Houses, which has opened the Eyes and

railed the Hearts of all your loyal Subjects.
Your Majesty is pleased to give us Warning of the Danger of being so far deluded, as to depend again on the Faith of Treaties, with an Enemy, who has never yet had any other Regard to them, than as they served the Purposes of his Interest and Ambition; and to inform us, that

Anno' 4 Anna, 1705.

no Peace can be lafting, fafe and honourable, till the Std. " nish Monarchy be fixed in the House of Austria, and Frank reduced to such a Degree, that the Balance of Power in

Europe be again restored.

We humbly concur with your Majesty in these your wife and noble Sentiments, and we faithfully promife, that no Dangers shall deter us, nor any Artifices divert us, from doing all that is in our Power to affift your Majesty in car. rying on the War, till you shall be enabled to procure fuch a Peace for Europe.

Your Majesty is graciously pleased to encourage us with the Hopes of a glorious Campaign the next Year, and we humbly present our Thanks to your Majesty, for hav-

ing wifely and providently endeavoured to concert fuch Measures, as, by the Goodness of God, may be a reason. able Foundation for those Hopes: And we affure your

Majetty, nothing on our Part shall be wanting to make

them effectual.

We rest consident, that all your Majesty's Allies, excited by your Constancy and Courage, and fired by the Example of a Prince, whom you have been pleafed to mention in 6 so honourable a Manner, will make their utmost Efforts to carry on the Cause of Liberty, and bring this just and ' necessary War to a speedy and happy Conclusion.

May it please your Majesty,

What you have already performed, and what you are fill pursuing for the Good of Christendom, discovers a Greatness of Mind equal to the most heroic of your Pre-· decessors.

But we, who have the Happiness to be your Subjects, ought, in the first place, to admire in your Majesty, that tender and indulgent Affection to your People, which you have shewn from the beginning of your Reign; that earnest Desire to unite them among themselves, and to make them all eafy, fafe, and happy, uuder your Government; that Heady Zeal for the Church of England, as by Law ellablished; and, that Compassion for those who are so un-

happy as to diffent from her: All which your Majelly having expressed at this time in so gracious and moving 1 manner, cannot but raise in us the most firm and lively

· Resolutions, of promoting every thing you have thought

fit to recommend. We assure your Majesty, we will do all we can to dif-

countenance and defeat the Designs and Practices of thole who foment Animofities among your People, and will ever shew the utmost Detestation of those ungrateful and wicked Men, who labour to dishonour your Majesty's Anno 4 Anno.
Reign, and distract your Subjects with unreasonable and groundless Jealousies of Dangers to the Church of England. We shall be ready to concur in all Measures requisite to put a Stop to the Malice of these Incendiaries. In the mean time, we humbly advise and beseech your Majesty to require and command your Officers and Ministers, to whom that Part belongs, that they prosecute and punish them with the utmost Rigour of Law, as the most spiteful and dangerous Enemies to the Church and State.

Your Majesty's Example is the shining Ornament of our Church, which, under the Influence of your happy Government, increases in Honour and Esteem, not only at Home, but Abroad. Your unexampled Bounty for the Relief of the Poor Clergy (which has been justly and universally acknowledged and celebrated) is an undeniable Evidence of your Concern for the Dignity and Honour of the Church. And your Majesty's Care to lay hold of every Opportunity of declaring it from the Throne, makes it impossible for any of your Subjects to entertain a real Doubt of your Zeal for the Church, as by Law established

We beg leave to offer to your Majesty our most sincere Assurances, that we will not be wanting in our utmost Endeavours to reconcile and unite all your Subjects, and to extinguish those unhappy Animosities which have too much prevailed among us, the effecting whereof seems to be the only Happiness wanting to compleat the Blessing of your Reign, which we pray God may long continue, and that you may see the Fruit of all your Majesty's gracious Admonitions to your Subjects, in their hearty and entire Union, and the happy Effects of all your great Designs Abroad, in the well established Peace and Liberty of Europe.

Her Majesty's Answer was as follows.

My Lords,

Sp4.

rante

er in

your

that

rom

car-

cure

with

and

hay-

fuch fon-

your

ited

ple

n in

orts

and

are

rs a

Pre-

els,

that

you

ear-

ake

nt;

un-

efty

ga

ely

ght

dif-

10/6

lliw

and

Return you my hearty Thanks for your Address, and Queen's An"I assure you it is a great Satisfaction to me, to find you swer.
"are so ready to concur in those Things which I have recommended to you."

The House of Lords having fixed upon the 15th of No- State of the vimber, 1705, to consider of the State of the Nation, her Majesty being present, the Lord Haversham opened the Debate in these Words:

U 2

Anno 4 Annæ, 1705.

Lord Haver-

My Lords,

It may perhaps be expected, fince I moved to you the State of the Nation, that I should say somewhat to you upon this Occasion; and tho' I never laboured under more Difficulties than I do at present, yet being conscious to myself of a Heart sull of Loyalty and Duty to her Majesty, and Zelfor her Service, as is possible for any Subject to have; and knowing, that the best way of preserving Liberty of Speech in Parliament, is to make use of it, I will mention three or four general Heads to your Lordships, and speak to them with a great deal of Freedom and Plainness.

The first Thing I shall speak to is, the present Confederate War in which we are engaged: And because the betway of judging what we may reasonably expect for the sture, is to consider the Actions that are passed, give me Leave to take a little Notice to your Lordships of the Operations of the last Campaign: I shall not say much of our forcing the French Lines, and our beating the French Troops afterwards, (tho' that was a very great and brave Action) but because there was such a Mixture of Victory and Missortune; and that this is such a chequered Piece, I purposely

forbear taking further notice of it.

But there were two other Actions which, I think, take in your whole Campaign, the March of our Army to the Mofelle, and the Business of Overisch; in both which, give me Leave to say, (not to give it a harder Term) I think we were not used as we might have reasonably expected. Our General, with a great deal of Conduct, covered Prince Lewis of Baden's Army; nor can it be doubted, he might easily have joined us, if he had pleased, without the least Danger from the French; which if he had done, (by the best Account I could ever get, and I think I have a very true one) we had been at least 25,000 stronger than the Enemy there. But being disappointed of being joined by Prince Lewis, and of the Assistance we expected from him, that great Design proved abortive.

The next was the Business of Overisch, where, by the Conduct of my Lord Duke of Marlborough, we had a fair Opportunity of putting an End to the War at once. But the Dutch held our Hand, and would not let us give the de-

ciding Blow.

Thus ended your Campaign, tho' it began with more promising Hopes of Success than this next I believe will. You had then to deal with an Enemy, whose Councils were distracted, whose Troops were broke, and the Courage of his Army sunk.

From

ther Men nor Money, Courage nor Conduct, that it is nei- Anno 4 Anne, only Things to carry on a successful confederate War.

Those who command your Army, are Men of that Bravery, and every common Soldier hath so much Courage, that no equal Number of Men in the World, I think, can stand before them; but let our Supplies be never so sull and speedy, let our Management be never so great and srugal, yet if it be our Missortune to have Allies that are as slow and backward, as we are zealous and sorward; that hold our Hands, and suffer us not to take any Opportunity that offers; that are coming into the Field, when we are going into Winter Quarters; I cannot see what it is we are reasonably to ex-

pect.

the

POR

iff.

f of

Zal

and

eech

e or

hem

nfe.

best fu-

eave

lons

cing

fter-

but

for-

fely

ake

the

give

we

Our

uws

afily

nger

ount

had

Bat

and

fign

the

fair

But de-

nore

will.

vere

e of

rom

. The next Thing I shall take the Liberty to speak to, is the Point of Trade. Every one fees how our Merchants go off daily, and how low the Trade of this Nation at present is. I know, my Lords, there is a Word we are very fond of which we call the Balance of Power; but the Dutch, who are a very wife People, have a double View, and take as much Care of the Balance of Trade, as they do of the Balance of Power; and are as fearful of our Power at Sea. as of the Power of France by Land. My Lords, the best Knowledge of Things, is by the Causes: It is Trade begets Wealth, as Wealth begets Power, and it feems very hard for England, that while the Dutch live at Peace under the Protection of our Arms, we, if we will have any Part of Trade with them, must have it under the Protection of their Passes: But it will be much harder, if, after their having the Advantage of a trading War, we should make a tradeless Peace.

I know, my Lords, the Dutch generally complain they are very poor; but give me Leave to say, I cannot see how they have been out of Pocket one Shilling since this War; for they gain more by Remittances from England, than all the Money that goes out of their Country to Portugal, Savoy,

and the German Princes.

'There is one Thing more, which I take to be of the greatest Importance to us all. It is this I had chiefly in my Intention; and with which I shall conclude what I have to

fay.

of one Thing to your Lordships. My Lords, it is the Happiness of England, and that which ever did, and ever will keep the greatest Ministers in Awe; that by the Law and Custom of Parliament, the meanest Member of either House has undoubted Right to debate on any Subject, and to speak his Thoughts with all Freedom, without being liable to be

Anne 4 Anne, called in Question by any Person whatever, till the Paris. ment itself hath taken Notice of them. This is grounded on the greatest Equity and Reason, because that which concerns all, should be debated by all: Nor is it possible for Parliament to debate, or come to a clear Resolution on any Question, or to give Advice to her Majesty, as they ought without this Freedom. I give good Authority to jutiff what I fay; Sir Robert Atkins (Fol. 54.) in his Treatife d the Power and Privilege of Parliaments, tells us of the Cafe of one Sir Thomas Haxey, in the Time of King Richard II. who having delivered a Petition to the King, with which he was displeased, the King sent to the Speaker to know who it was that delivered that Petition; by which, fays Sir Re bert, it is apparent, the King cannot take Notice of any thing done in Parliament, (he names the House of Commons) but as it is represented to him by the House itself,

Having faid this, give me leave to read to your Lordship a Paragraph of her Majesty's Speech to her last Parliament last Year. ' My Lords and Gentlemen, We have, by the Ble

fing of God, a fair Prospect of this great and defirable End; if we do not disappoint it, by our own unreasonable Hu mour and Animosity, the fata! Effects of which, we have

fo narrowly escaped in this Session, that it ought to be a · fufficient Warning against any dangerous Experiments for

the future.

I shall not go about to shew the Grammatical Construction of these Words, but chuse rather to say, that as we enjoy many Bleffings under her Majesty's happy Government, so I hope we shall have this too, that her Majety will never give Ear to any secret and private Information; but as it comes to her in a Parliamentary way, by the House themselves.

' The last Thing, my Lords, is that which I take to be of the greatest Concernment to us all, both Queen and Peo-I love to speak very plain, and shall do so in this Point,

" My Lords, I think there can be nothing more for the Safety of the Queen, for the Preservation of our Constitution, for the Security of the Church, and for the Advantage of u all; than if the Presumptive Heir to the Crown, according to the Act of Settlement, in the Protestant Line, should be here amongst us. 'Tis very plain, that nothing can be more for the Security of any Throne, than to have a Number of Successors round about it, whose Interest is always to defend the Possessfor from any Danger, and prevent any Attempt against him, and revenge any Injury done him. Is there any Man, my Lords, who doubts, that if the Duke of Glosester had been now alive, her Majesty had not been more se

fure than the is? We cannot think of that Misfortune with Anno 4 Anno out the greatest Grief; but yet we are not to neglect our own Safety; and tho' a Successor be not the Child of the Prince,

yet is he the Child of the Queen and the People.

arlin.

inded

COD.

for 1

any

ught,

uttify

ie of

Cafe

dII.

h he

Who

Ra any

Com-

If.

Thips

ment

Blef.

End:

Hu.

have

be a

s for

ruc-

We

ern-

jesty

ion;

oules

o be

Peo-

oint,

the

tion,

of us

ding

d be

nore

er of

fend

mpt

here Glou-

e le-

cure

Besides, my Lords, the Heats and Differences which are amongst us, make it very necessary, that we should have the Presumptive Heir residing here : The Duty and Respect we pay her Majesty, and the Authority of the Law, can hardly keep us in Peace and Union amongst ourselves at present! what then may we not fear when these Bonds shall ever happen to be broken?

And would it not be a great Advantage to the Church, for the Presumptive Heir, to be personally acquainted with the Right Reverend the Prelates? Nay, would it not be an Advantage to all England; that whenever the Successor comes over, he should not bring a Flood of Foreigners along with

him to eat up and devour the Good of the Land?

I will fay no more to your Lordships, but conclude with this Motion; That an Humble Address be presented to her Majesty by this House, that her Majesty will be graciously pleased to invite the Presumptive Heir to the Crown of England, according to the Acts of Parliament made for fettling the Succession of the Crown, in the Protestant Line, into this Kingdom, to refide here.'

This Motion was back'd by feveral Lords, but opposed by great Majority, so that after a Debate of four Hours, the Question being put, Whether the Princess Sophia should be fent for over to England, or not? The previous Question was put, Whether that Question should be put? And was carried in the Negative: However, some Lords who were for inviting the Prince's Sophia to come over, entered their Protest *; and tho' the greatest Part of the House of Peers were against this Invitation, yet they so far concurred with the Tendency of this Speech, that they carried it without dividing on the 19th of the fame Month, the Queen again present, that a Bill should be Bill for the betbrought in, for the better Security of her Majesty's Person ter Security of her Majesty, and Government, and of the Succession of the Crown of Eng. brought in. land, in the Protestant Line, &c. and at the same time, or- Another for na-

dered turalizing the Hanover Line.

* As follows :

Diffentient'

Because, we humbly conceive, the having a Presumptive-Heir to the Crown refiding within the Kingdom, would be a great strengthening to her Majesty's Hands in the Administration of the Government, a Security of her Royal Person, and the Succession to the Crown, as by Law established, in the Protestant Line.

Winchelsea, Jersey, Buckingham, Nottingham, Anglesea, Haversham, Rochester, Abingdon, Howard, Conway, Leigh.

1705.

Anno Anna, dered another Bill to be brought in for naturalizing such of the Illustrious House of Hanover, as were Protestants.

A third to appoint a Regency on the Queen's Descafe.

And on the 21st, the Judges, according to Order, brought in a Bill to nominate these following Commissioners to a upon the Decease of her Majesty, for the better Security of the Hanover Succession, viz. Archbishop of Canterbury, Lond High Admiral, Lord Keeper, Lord Treasurer, Lord Prive Seal, Lord President of the Council, Lord Steward of the Houshold, and Lord Chief Justice of England for the Time then being.

A fourth for a Union with Scotland.

The Lords, on the 22d, having adjourned the Debate touching the Miscarriages of the last Campaign, occasioned by the Allies, fine die, went upon the Scotch Affairs (the Queen present) and ordered the Judges to bring in a Bill for an Union with Scotland, and that a Committee should in thereon.

Address of Thanks for her Majesty's Care Scotland, and the Hanover Succession.

On the 24th, They refolved, that Thanks should be given to her Majesty for her great Care touching Scotland, and for her good Intentions, and for her Care in promotion the Interest of Scotland by the Hanover-Succession in the Protestant Line. Resolved also, That all the Clauses in the former Act for an Union with Scotland should be repealed except that which empowered her Majesty to nominate Commissioners.

December the 3d, Hodie 3ª vice lecta eft Billa, entitled, An Act for the better Security of her Majesty's Person and Go vernment, and of the Succession to the Crown of Englandin the Protestant Line.

A Rider offered to the Bill for the better Security of her Majesty's Perfon.

A Rider was offered to be added to the Bill to restrain the Lords Justices from giving the Royal Assent to any Bill in repealing or altering the Act 31 Caroli Secundi, called, The Habeas Corpus A&; the A&t called, The Toleration A&; that called, The Triennial Act; and the Act for regulating Trialin Cases of Treason.

And rejected.

And the same being read, after Debate, the Question was put, Whether this Rider shall be read a second time?

It was refolved in the Negative.

Protest thereon.

Dissentient' Because, we conceive, these Acts, mentioned in the fort going Rider, are as necessary for the Preservation of the Protestant Religion, and the Rights and Liberties of the Subjects of England, as the Act of Uniformity, in the Opnion of the House itself, is for the Preservation of the Church of England.

Beaufort, Scarsdale, Haversham, Northampton, Guilford Rochefter, H. London, Carnarvon, Thanet, Anglesea, Granville, Granville, Guernsey, Buckingham, Weymouth, Nottingham, Anno 4 Anna, North and Grey, G. Bath and Wells.

Then, after further Debate, the Question was put, Whether this Bill shall pass?

It was resolved in the Assirmative.

Dissentient'

uch of

rought

to ad

rity of

Lord Privy.

of the Time

Debate

fioned

the (the

ill for

ıld fu

d be

tland,

oting

n the

in the

ealed,

Com

, At

Go.

nd in

n the

la for

. The

that

alsin

W25

fore-

the

Opithe

ford,

Aer,

ille,

1st. Because, it having been our humble Opinion, that Protest thereon, nothing can so firmly secure the Succession to this Crown in the Protestant-Line, as the presumptive Heir's residing in this Kingdom, and our Proposal of an humble Address to her Majesty for that Purpose having been resused, this whole Bill also being sounded on the said Heir's being absent at the Time of the Queen's Demise, we fear the Bill may prove not only inessectual to these good Purposes for which it is designed, but dangerous also in preventing the said Heir's coming hither, in the mean time, by the Opinion some have of the Successor's being so well secured, that no such further Care needs to be taken about it.

adly, Because every one of the seven Lords Justices, constituted by this Bill, is therein made so far independent of the very Successor, as not to be displaced by the said Successor in that Instrument, which is to be deposited here for the Addition of more Lords Justices; the Reason for which Addition we think equally strong, by enabling also the Successor to exclude, by the said Instrument, any of those seven Justices; which said Justices may otherwise be found (when, perhaps, it will be too late) invested with too great a Power, if they can ever be supposed capable of ill employing it.

3dly, Which last Objection we conceive to be of more Weight, fince it was refuled by the House to restrain those future Lords Justices from repealing the following Acts, viz. An Act for preventing Dangers which may happen from Popish Reculants; an Act for the more effectual preserving the King's Person and Government, by disabling of Papists from sitting in either House of Parliament; the Act for the better fecuring the Liberty of the Subject, and for Prevention of Imprisonment beyond the Seas; the Act for the further Security of his Majesty's Person, and the Succesfion of the Crown in the Protestant-Line, and for extinguish. ing the Hopes of the pretended Prince of Wales, all other Pretenders, and their open and secret Abettors; the Act for exempting their Majesties Protestant-Subjects, dissenting from the Church of England, from the Penalties of certain Laws; the Act for the frequent meeting and calling of Parliaments; and the Act for regulating of Trials in Cases of Treason and Misprission of Treason; which Laws we account the very 1705.

Anno 4 Anne, Pillars of our Constitution, and that consequently no Subject whatsoever ought to be entrusted with the Power of passing any Act to repeal them, during the Time, when it will be impossible for the Successor to know any thing of the Mar. ter, or so much as that the said Successor is become our So. vereign.

Athly, Because in this very Bill, which entrusts the Lorde Inflices with a Power of giving the Royal Affent to Laws of fo dangerous a Nature, and with all the executive Power, vet, we conceive, they are restrained from revoking the least military Commission, or disbanding any Officer of the Army, tho' never fo much deferving to be suspected by them.

Laftly. We apprehend the great Danger her Majesty may be exposed to, fince whatever is infufficient to secure the Suc. cession in the Protestant Line, and may render it liable to Difficulties or Uncertainties, must also encourage ill Design against her facred Life; which may be thought the only Obstacle in the Way of such wicked Persons, who may flat ter themselves with the Hopes of Consusions after it.

Beaufort, Carnarvon, Denbigh, Buckingham, Anglesea, Haversham, Nottingham, Thanet.

I diffent for the four last Reasons, And I also, And I also,

Granville. North and Grn. Guernsey.

Enquiry into the Danger of the Church.

The 6th being appointed to enquire, Whether the Church Lord Rochester, was in Danger, the Lord Rochester began the Debate, and told their Lordships, 'the Subject-Matter of it was of so tender a Nature, that it was difficult to speak to it: For her Majesty had expressed herself so conclusively in her Speech, that it seemed to be to contradict the Queen to speak freely; but in regard that the Ministers might be supposed to compose the Speeches, he defired that what he said might not be offensive to the Queen, to whom he had all the Affection and Respect that could be. He said, that Ministers might mistake, and not always act for the public Good, and instanced in the Ministry of Portugal, where the King was our Friend, the Ministry seemed to be otherwise, insomuch, that that Alliance was of no Benefit to us: That the Duke of Buckingham and Archbishop Laud were hearty in the Interest of King Charles I. and yet did many things that very much injured him. The full Expressions in the Queen's Speech he compared to the Law in King Charles the Second's Time, to make it Treason to call the King a Papist; for which very Reason, he said, he always thought him so. The Reasons he gave for his Fear of the Church's Danger arose from these three Causes: First, The Security-Act in Scotland: Second. jech

ffing

ll be

Mat.

So.

ords

vs of

Wer.

leaft

rmy,

may

Suc.

e to

figns

only

flat.

Ha-

Greg.

urch

and

ten-

her

ech,

ely;

om-

not

Rion

ight

in-

our

that

e of

ereft

nuch

h he

ime,

very

fons

hele

ond-

ly,

ly, The Heir of the House of Hanover not being fent for Anno 4 Annas over: Thirdly, The not passing the Occasional-Bill. Upon the first he said, the Presbyterian Church in Scotland was fully established without a Toleration, that to arm that People was to give them a Power to invade England, where they had a powerful Party for their Friends, who never wanted the Will to destroy the Church : That he thought the Heir of the Crown ought to be present among us, in order to be fully acquainted with us and our Constitution, and thereby enabled to prevent any evil Defigns upon the Church and State: That the Occasional-Bill was in itself so reasonable, and the Church's Request in it so small, that the Industry in opposing it gave the greater Ground for Suspicion.

When that noble Lord had done, the House fate still a Quarter of an Hour, expecting fome body would fecond him; but no body elfe speaking on that fide, the Lord Hallifax faid Lord Hallifax that he having moved for the present Debate, it might be expected that he should speak to it. He said, the Act of Security in Scotland, was national Thing, wholly foreign to Church-Affairs; that it was not to pass, but to prevent immediate War, which the Scots feemed to have resolved upon; that, in case it should ever be made Use of, it would be but as other Wars with that Nation had been, in former Days, wherein England was always able to defend itself, and would fure, hereafter, be more able to do it, inasmuch as the Strength of England was increased much more than that of Scotland; fo that unless France should come into the Quarrel, whose Hands were already too full to do it, it would fignify little: But, bleffed be God, Things were fo well compromised with the Scots, and their former Heat so much abated, that there was no Reason to doubt of an amicable Issue of that Difference: As to the House of Hanover, he said, that was a Danger of but eight Days standing; for he durst say a Fortnight ago, no body made the Absence of the Princess Sophia, a Danger to the Church; and as for her Absence upon the Queeen's Death, that was now so well to be provided for by the Act for Lords Justices, that he thought no Evil could possibly happen to the Church before her Arrival. That he wondered the House of Hanover should be now esteemed such a Security to the Church; whereas, when the Laws were made for the Security of that Succession, it was generally reckoned a Hardthip upon the Church: And a Clergyman, in a Company of Convocation-men, had openly called her an unbaptized Lutheran; the Truth of which he could prove. As to the Occasional Bill, he said, that Matter had been canvassed already, and it was then the Opinion of that House that it would not prove of any Advantage and Security to the Church, but ra-

X 2

ther

That, upon the whole, there had been Anno 4 Anna, ther the contrary. Times in our Memory, wherein the Church might be fait to be in Danger. King Charles II. was a Roman Catholic at least his Brother thought fit to declare it after his Death; and the Successor, who had the Management of all Affair, was known to be fuch, and yet the Church thought herself then secure, and those Patriots that stood up in it's Defence. and endeavoured to prevent the Evils which might enfue from a Popish Succession, were discountenanced and punished : Nar. when that Successor came to the Throne, and that the Church was very apparently in the greatest Danger, by the High-Com. mission Court, and otherwise, we were then indeed generally alarmed; but we know who fat in that Court, (meaning Lord Rochester) and went large Steps in the Work then on Foot That, foon after the Accession of King William to the Crown, this Cry of the Church's Danger began, and was continued all his Reign, but with what Ground he was yet unapprized: That, upon her Majesty's happy Succession, for some time, the Complaint was filent; but that when she was pleased to make some Alterations in her Ministry, it was immediately revived, and had ever fince continued; and then concluded that the Church was now in no manner of Danger.'

Bishop of London.

This gave occasion to the Bishop of London to speak, he coming into the House just as the last Words were delivered, and immediately took the other Lord up, giving for his Reasons, 'That the Church was in Danger; that Prophase ness and Irreligion was so rife among us, and so intolerable the Licentiousness of the Press, from whence Books proceeded not fit to be read, that a most vile one had been lately published by a Clergyman in his Diocese (meaning Hickeringhil) whom he endeavoured to punish, but that he had such Subterfuges in the Quirks of the Law, that he could not comen him; and that Sermons were preached wherein Rebellion was authorized, and Resistance to the higher Powers encouraged.

Bishop of Saram.

This was the Substance of what his Lordship said; w which the Bishop of Saram replied; 'That his Lordhip ought to have been the last Man to complain of that Sermon; (meaning Hoadley's, before the Lord Mayor) for, if the Da trine of that Sermon was not good, he did not know what Defence his Lordship could make for his appearing in Ams at Nottingham. Then the Bishop proceeded to the Quellion in Debate; he began with a Piece of French History in the Reign of Henry III. (which he faid had been much in vogued late in a neighbouring House) [where Sir Humphrey Macunt had made Use of it] in whose Time the Catholics set upthe fame Cry of the Church's Danger from the Hugonots, and forced the King to comply with them; but that their beén

faid

olic

eath;

fairs,

erfelf

ence,

from

Nay,

urch

Com.

rally

Lord

oot.

own,

dall

zed:

, the

ake

evi-

that

, he

ver-

his

ane-

ih-

hil) ter-

e at

W25 ed'.

to

hip on;

100

the

Power thereby becoming great, they turned it upon the Anno 4 Anna King himself, and he found he should be thrust into a Monallery, if he did not speedily crush them, and therefore flabbed the Duke of Guife, their Head : He then compared our State Affairs with the other, and imputed all this prefent Clamour to the Ambition and Discontent of particular Men. To the Reasons that noble Lord (who began the Debate) gave for the Church's Danger, he replied, That as for the Scotch Affairs he was particularly acquainted with them, and therefore he would venture to speak with the more Affurance; that the Scotch Kirk being established without a Toleration, was an unfair Allegation, for there needed no Law for Toleration, where there was no Law to inhibit: The Episcopalians were not forbid to worship God their own way, being only excluded from Livings, and that there were at that Time fourteen Episcopal Meeting Houses in Edinburgb, as open as the Churches, and as freely reforted to, in many of which the English Liturgy was used, but that in several of them the Queen was not prayed for; and the Bill for giving Patrons Liberty of conferring their Benefices on Clerks, episcopally ordained had passed, (at least the King had allowed it) if they would have put in a Clause to oblige them to take the Oath to the Government; but upon the offering that Clause, the Person that sollicited it let it drop: His Lordship, who had mentioned the Act of Security, if he had looked two Years backwards, might have found another Law which seemed much more to his Purpose, namely, the Act for confirming Presbytery, I Annæ; but his Lordship was a Minister of State, when that Act passed, and so perhaps advised it: As to the Argument of the Hanover-Family, it could not be observed that he offered any thing remarkable; and for that of Occasional-Conformity, he said, it had been there already fufficiently argued, and he was glad that they were rid of it: But for what the Reverend Prelate had advanced he must speak, and said, indeed, that the Enmity of Prophaneness and Irreligion the Church would always be subject to: The Devil would have his Agents in the World, be the Government never so careful; but, he hoped he might say, that Irreligion and Prophaneness were not now at an higher Pitch than usually: That he hoped quite the contrary, and thought the Society fet up for Reformation in London and other Cities, had contributed confiderably to the Suppression of Vice: He was fure the Corporation for Propagation of the Gospel had done a great deal towards instructing Men in Religion, by giving away great Numbers of Books in practical Divinity, by erecting Libraries in Country-Parishes, by sending over very many able Divines to the foreign Planta-

Anno 4 Annæ, tions, erecling Libraries there for their Ufe, and fetting to Schools to breed up the Children in Christian Knowledge that to his Knowledge 1200/. had been expended last Year in Books to these Purposes, all collected by voluntary Con. tributions; but in Truth very little of it from those who appeared so wonderfully zealous for the Church. That the Press was indeed become very licentious, and Sermons were preached wherein very strange Expressions were published; That he would read some of them to their Lordships, and then pulling out Tilly's and Madder's Sermons, he read fome Paragraphs: Thefe, faid he, were what were preached at Ox. ford, and these are the Men picked out for public Occasions; I must remark that both these Gentlemen are of a House. where a noble Peer makes his Residence, when he honour that University with his Presence.

if

I

CO

0

C

Archbishop of York.

Then the Lord Archbishop of York stood up and faid. He apprehended Danger from the Increase of Diffenters and particularly from the many Academies fet up by them; and moved, that the Judges might be consulted what Laws were in Force against such Seminaries, and by what Means

they might be suppressed.

Lord Wharton.

Archbishop of.

York.

The Lord Wharton spoke next, and moved, That the Judges might be consulted about the Means of suppressing Schools and Seminaries held by Nonjurors, in one of which a noble Lord of that House had both his-Sons educated: Upon which the Archbishop stood up again and said, He supposed he was the Person meant, and therefore he must explain that Matter. He faid, his two Sons were taught by Mr. Ellis, a fober, virtuous Man, and a Man of Letters, and who had qualified himfelf according to Law when they were fent to him; but when the Abjuration-Oath was enjoined, that, it feems, he refused it, which, as foon as he was apprized of, he took his Sons from him.

Lord Wharton.

The Lord Wharton having made a Reply to this, wenton; and faid, That altho' he had been born and bred a Diffenter, yet he foon conformed to the Church, when he grew up, and became acquainted with its Doctrine and Discipline; that he was now firmly resolved, by God's Bieffing, always to continue in that Church, and would go as far in defending it as any Man: Wherefore if he were now fenfible that it was in any Danger, he would be heartily ready in providing Remedies against it; but that, after all the Cry and Expeditions they were screwed up to upon hearing wherein thole Dangers confifted, it appeared just as he expected, no mely, that it was only repeating the Memorial, which Pamphlet he had carefully read over, but could learn nothing from it. except that the D of B, the E of Rthe 2.8

ear

on.

bo

the

ere

ed.

and

me

Dx. ns:

ife,

urs

aid;

ers,

em;

aws

ans

the

ling nich

ted:

He

ex-

t by

and

were

ned. zed

t on, nter,

and

that

ys to

ng it

Was

Re

ecla-

thole

nely,

et he . ex-

the

, were out of Place. What these Anno 4 Anna the Earl of N-B's, R's, and N's meant, he could not tell; perhaps there might be some Charm in them for the Church's Security : But if those Letters meant some noble Peers there present, he remembered very well, that some of them fat in the Highcommissioned Court, and then made no Complaints of the Church's Danger; but now that we had a Queen, who was herself a real Lover of the Church, and had given such Encouragement and bountiful Tokens of her Affection for it, we must be amused with the Church's Danger: But he concluded with being of Opinion, that the Church was in no

The Bishop of Ely stood up, and moved, that the Judges Bishop of Elyalso might be consulted what Power the Queen had in visiting the Universities, complaining of the Heat and Passion of the Gentlemen there; which they inculcated into their Pupils, who brought the same Fury with them to the Parishes, when they came abroad, to the great Disturbance of public Charity; that at the Election at Cambridge 'twas shameful to see a hundred or more young Students, encouraged in hollowing like School-boys and Porters, and crying out, No Fanatic, No Occasional-conformity, against two worthy Gentlemen that flood Candidates. Then he complained of the Undutifulness of the Clergy to their Bishops,

and the Difficulty they had to govern them regularly. The Bishop of Litchfield and Coventry made the same Com Bishop of Litchplaint. He spoke of the opprobrious Names the Clergy field and Covengave their Bishops, and of the Calumnies they laid on them, try. as if they were in a Plot to deflroy the Church, and had compounded to be the last of their Order, and when the Plot was ripe, to refign their Bishoprics, and accept a Pension for Life. He alledged, that the Church was as well governed as it had at any time been; challenged any Body to charge the Bishops with any Omission of their Duty, or any Action wherein they strained or injured any Body. Ther he spoke of the Honour he had to fuffer in a good Cause, and thought that might have protected his Reputation from the Calumny of being an Enemy to the Church.

The Bishop of Bath and Wells also spoke, and complained Bishop of Bath of the Terms of the High-church and the Low church; that and Wells. It was an invidious Distinction, tending to set us at Enmity, that by High church People were made to believe a Man inclined to Popery, or, at least, one that endeavoured to carry Church-power beyond our Constitution, which he thought was great Injustice, the Gentlemen that bore that Character meaning nothing more, than to keep up the just Dignity and Discipline of the Church. Neither did he believe, that

Anno 4 Anna, the others, called Low-church, had any Deligns of lower, ing or levelling it with Presbytery, as was on the other hand

maliciously suggested.

Duke of Leeds.

The Duke of Leeds flood up, and faid, he apprehended the Church was in Danger, and could not be fafe without the Act against Occasional Conformity, and that the Queen had, in Discourse with him, declared herself of that Opinion.

Lord Somers.

The Lord Somers recapitulated all the Arguments on both Sides, added his own Judgment, and ended with a Declaration, that the Nation was happy under a most wife and in Administration, wherein the Public Money was justly ap. plied, the Treasury kept in a most regular Method, and thereby the Public Credit in the highest Esteem, the Armin and Fleets were supplied, and the Success of her Majesty Arms gave the Nation greater Honour and Reputation, that had been known, and that we had a fair Prospect of bringing the War to a happy Conclusion, to the immortal Honour of the Age, and the inexpressible Benefit and Safety of Posterity: Wherefore for Men to raise groundless Jealouses this time of day, it could mean no less, than an Intention to embroil us at Home, and to defeat all those glorious Defigns Abroad.

Church voted not to be in Danger.

The Debate at length being over, the Question was put, Whether the Church of England was in Danger, or not! And, upon a Division, it was carried in the Negative: No's 61, Yea's 30, the Queen present. Next Day the Lords fent a Message to the Commons, to acquaint then with their Proceedings touching the Church, and defiring their Concurrence to the following Refolve, viz. Refolved by the Lords spiritual and temporal, and Commons in Parliament affembled, that the Church of England, as by Las established, which was rescued from the extremest Danger by King William III. of glorious Memory, is now, by God's Bleffing, under the happy Reign of her Majefty, in a most fafe and flourishing Condition, and whosoever got about to suggest and infinuate, that the Church is in Datger under her Majesty's Administration, is an Enemy to the Queen, the Church and the Kingdom.' This Resolution being carried in the House of Lords, as aforesaid, by a great a Majority, the opposite Side, however, entered the following Reasons for diffenting.

Concurrence of Commons defired.

Diffentient'

Preteft thereon.

1 ft, Because we humbly conceive, there may be Dangen to the Church always impending on feveral Accounts, the Prayers set forth to be used on the solemn Feast-Days, we der the Head of a Prayer for Unity, imploring God Al mighty's Grace, that every Body may feriously lay to Heat ver.

and

hout

icen

ion,

hooth

ara.

juft

2p.

and

mies fly's

than

nour

Po-

es at

ntion De-

put,

not ?

the

hem

iring

olved

Par-

Law

inger, by

y, 18

gos

Dan-

to the

ution

by to

d the

ngen

, the

, un-

d Al-Heart the great Dangers we are in by our unhappy Divisions, shew Anno Anno Anno plainly, that, in the Opinion of the Compilers of the Form of that Prayer, and in her Majesty's Judgment, who commands it to be used in all the Churches and Chapels throughout England and Wales, there are very many Dangers.

adly, We humbly conceive the Church to be in Danger from a neighbouring Kingdom, which, tho' under her Majesty's Sovereignty, during her Lise (which God long preserve) hath not, by any Means, yet been induced, to settle the same Succession to the Crown, as is established by Law in this Kingdom, in the Protestant Line; but, on the contrary, that Succession has been abrogated by the Act of Security, which, with several other Acts, passed in that Kingdom, has been judged by this House, in the last Parliament, to be dangerous to the present and suture Peace of this Kingdom; and therefore we may justly fear there are Dangers from hence, both to Church and State.

3dly, We humbly conceive, there may be very great Dangers to the Church, for want of a Law to prevent any Perfons whatsoever from holding Offices of Trust and Authority, both in Church and State, who are not constantly of the Communion of the Church established by Law; and therefore, on the Account of the unhappy Divisions in the Kingdom in Points of Religion and Divine Worship, as also, on the Account of the Calamities of this Age, in the too public and common disowning any Religion at all, the Church may be in Danger.

Athly, Tho' we have an entire Confidence in her Majesty's Zeal and Piety to the Church, we dare not, in Duty to her Majesty and the Service of the Government, condemn all such as may have Fears, in relation to the Preservation of the Church, and Safety of the Crown.

5thly, Being fincerely convinced that these Reasons, among some others mentioned in the Debate, are sufficient to justify our Fears, we humbly conceive, that it is not a proper Way to prevent Dangers, by voting there are none.

Buckingham, Northampton, Garnarvon, Weymouth, Ofborn, Denbigh, George Bath and Wells, Granville, Beaufort, Winchelsea, Nottingham, North and Grey, Anglesea, Craven, Chandois, Guernsey, Thanet, Scarsdale, Rochester, Conway, Howard of Escrick, Henry London, Leeds, Guilford, Abingdon.

I diffent for the first, second, and fourth Reasons,

Haversham.

The Archbishop of York, and Bishop of Rochester, protested afterwards.

Y

December.

1705.

Anno 4 Annæ,

December the 14th, Both Houses waited on her Majely with their joint Vote, That the Church was not in Danger; and on the 20th the following Proclamation was published.

ANNE R.

Queen's Proclaration about the Danger of the Church.

7 HEREAS of late several Persons, endeavouring to foment Animofities, and to cover Defigns which they dare not publicly own, have falfly, feditiously, and maliciously suggested, the Church of England, as by Law ell. blished, to be in Danger, at this Time, whereof we thought fit to take Notice in our Speech made at the Opening of this Parliament: And whereas the Lords spiritual and tem. poral, and Commons in Parliament assembled, have by their humble Address represented to us, that, having taken into Consideration our said most gracious Speech, they had, upon mature Deliberation, come to a Resolution, which they laid before us, affuring us, that, as we had been pleased to expres a just Indignation against all such wicked Persons, they will be always ready, to the utmost of their Power, to assist us in discountenancing and defeating their Practices, humbly be feeching us to take effectual Measures for the making the faid Resolution public, and also for punishing the Author and Spreaders of these seditious and scandalous Reports, to the end that all others may, for the future, be deterred from endeavouring to distract the Kingdom, with such unreafonable and groundless Distrusts and Jealousies: We, therefore, at the said humble Request of the Lords spiritual and temporal, and Commons in Parliament affembled, do by this our Royal Proclamation, make public the faid Resolution, which follows in these Words:

Commons in Parliament affembled, that the Church of England, as by Law established, which was rescued from the extremest Danger by King William III. of glorious Memory, is now, by God's Blessing, under the happy Reign of her Majesty, in a most safe and flourishing Condition; and that whosoever goes about to suggest and infinuate, that the Church is in Danger under her Majesty's Administration, is an Enemy to the Queen, the Church, and Kingdom.

"And we do hereby, by the Advice of our Privy-Council, declare, that we will proceed with the utmost Severity the Law shall allow of, against the Authors or Spreaders of the said seditious and scandalous Reports. And we do hereby strictly charge and command all and singular our Judges, Justices of the Peace, Sheriffs, Mayors, Bailiffs, and all other our Ministers whatsoever, to take effectual Care for the speedy Apprehension, Prosecution and Punishment of all

ed.

ring

hich

mą.

effa. ught

g of

tem-

heir

into

pon laid

reis will

s in

be-

the

1013 to

om

·22-

-31

and

his

00,

and

119.

ez-

ry,

her

hat

he

15

n.

ity

by

es,

0-

all

fuch Persons, who have or shall at any time hereafter offend Anno 5 Anne. And we do hereby further require and command all our loving Subjects whatfoever, to discover and apprehendall and every Person and Persons whatsoever offending. as aforefaid, to the end they may be dealt with and proceeded against according to Law. And whereas the faid seditious and scandalous Reports have been greatly promoted and spread, by the printing and publishing of a malicious and seditious Libel, entitled, The Memorial of the Church of England, humbly offered to the Confideration of all true Lovers of our Church and Constitution: And whereas David Edwards, of the Parish of St. Dunstan's in the West, London, Printer, is charged on Oath to be the Printer and Publisher of the said Libel, and is now under Prosecution for the same, and on that Account absconds from Justice, and the Author or Authors of the faid Libel is, or are not difcovered, we do hereby further require and command all our loving Subjects whatfoever, to discover and apprehend the faid David Edwards, and the Author or Authors of the faid Libel, to the end they may be dealt withal, and proceeded against according to Law, &c."

March the 19th, Her Majesty put an End to the Session with a Speech, which fee in CHANDLER's History, Anno 5 Annæ, 1705, P. 473; as likewise an Account of the Treaty for the Union of the two Kingdoms, which was perfected and presented to the Queen, by the Commissioners of both, July 23, 1706.

May the 14th, The Duke of Marlborough fet out for Hol The Summer's land; and, August the 12th, he obtained a complete Victory Exploits. over the French, commanded by the Elector of Bavaria and Marshal Villeroy at Ramillies; which was followed by a general Revolution in the Low Countries in favour of King Charles.

In Italy, enabled by a Loan of 250,000 1. from England, Prince Eugene, after thirty four Marches to join the Duke of Savoy, offered Battle to the French, who laid Siege to Turin; and after two Hours Engagement, in which the Marshal Marsin was killed, and the Duke of Orleans wounded, utterly defeated them, seized on their Camp, Tents, Baggage, Sc. and relieved that Capital.

In Spain, King Charles was closely besieged in Barcelona, by the Marshal de Thesse by Land, and the Count de Thoulouse by Sea; but was most opportunely relieved by the gallant Earl of Peterborough and Sir John Leake; the Count de Thoubuse not staying till the English Fleet appeared in Sight, and the Marshal de Thesse decamping with the utmost Confusion a

Anno 5 Annæ, few Days after, and leaving his Ammunition, Stores, Tent, and even his fick and wounded Men, at the Mercy of the Enemy.

The Second * Session of the Second Parliament of Queen Anne

AS opened by her Majesty, December the 3d, with a Speech to both Houses (to be found in CHAND. LER's History, Anno 5 Annæ, 1706, Page 45;) in return to which the Lords presented the following Address:

May it please your Majesty,

Lords Address of Congratulation.

7 E your Majesty's most dutiful and obedient Subjects, the Lords spiritual and temporal in Parliamental fembled, with Hearts full of Joy, beg leave to congramlate your Majesty, upon occasion of the many great Succeffes obtained by your Majetty's Arms, and those of your Allies, in all Places, during this wonderful Year. We could not hope for any thing more glorious than the opening the Campaign by the ever-memorable Victory gained at Ramillies, under the Command of your Majesty's wife and valiant General, the Duke of Marlborough; and nothing could be more feafonable at the Close of the Campaign, than the complete Victory gained by the Duke of Sawn and Prince Eugene, before the Walls of Turin. trious Consequences of these two Battles, made it impossible for your Enemies to disguise their Losses, and demonstrated to the World, that never any Generals better understood how to make use of their Success. And if we your " Majesty's Subjects should not do all that lies in our Power, towards improving the Advantages which the Divine Providence has given to your Majesty, and your Allies, we should shew ourselves unthankful to God, inexcusable to your Majesty, and manifestly wanting to our Country, and the common Cause of Europe.

We cannot sufficiently express the universal Pleasure and Satisfaction of your People, upon the public Declaration

which your Majesty, in concert with the States General, made to the Ministers of the other confederate Princes, that

^{*} In the Interval between the Sessions, William Cowper, Esq; was made Lord-Keeper, in the Room of Sir Nathan Wright, some Time after which he was created a Baron, and in 1707 appointed Lord-Chancellor.

that no Negotiations of Peace should be entered into, but Anno 5 Annua in conjunction with all the Members of the Grand Alliance.

This generous Method will prevent the indirect and dangerous Practices of the common Enemy, will put a Stop to clandestine and corrupt Transactions, and must not only remove all present Jealousies from the Allies, but create in them 1 lasting Considence and Reliance on your Honour and Justice.

ought to inspire all the other Allies with a noble Emulation of acting with the like Vigour. If any of them have been failing for the Time past, we hope your Majesty will find proper Means to let them see, that the only right Amends they can make to the Cause of Liberty, is, by doubling their Efforts at this important Conjuncture.

This will be the true Way to obtain such a Peace as all good Men desire, which may secure to your Majesty's Subjects the Protestant Succession, and all the Advantages of Trade and Commerce; may restore the whole Monarchy of Spain to King Charles III. may fix such a Barrier for the States-General (in whose Security we must always think the Interest of England is engaged) as may be to their just Satisfaction, and may procure such Terms and Conditions for all the Allies, as may be just, safe, and honourable; such a Peace as may be durable and lasting, by reducing effectually the exorbitant Power of a Prince whose restless Ambition nothing could satisfy, and who has always despised the Obligations of the most sacred Leagues and Treaties.

Most gracious Sovereign,

the

0

27-

vith

ND-

in

5;

as.

21-

uc-

1110

We

en-

ned

vile

no-

gn,

Mari

luf.

ble

ler-

nu

rer,

we

e to

and

and

ion

ral,

es,

hat

Wal

ime

We cannot omit to make our most thankful Acknowledgments of our universal Happiness under your just and mild Government, of your true Zeal for the Safety and Honour of the Church of England, of your great Care for the due Administration of Justice, and your tender Regard for the Properties and Liberties of your People; but in a particular Manner we must own, with all Gratitude, your Majesty's Wisdom and Foresight, as well as your Goodness, in your Royal Endeavours to bring to pass an entire and complete Union of your two Kingdoms of England and Scotland. May God Almighty make these your gracious Defigns successful; and may your Majesty long reign over us, to see the happy Fruits of them, in the Safety, Tranquility, Wealth, Honour, and flourishing Estate of your Majesty's united People.'

Amo 5 Anna)

Her Majesty's Answer was as follows t

My Lords,

The Queen's

Am very much pleased with the many Expressions of your Affection for my Service, and of your Zeal for the common Cause, in the several Particulars of this Address, which is entirely to my Satisfaction, and I assure myself it will have its just Weight both at Home and Abroad."

December the 16th, The Lords addressed the Queen to settle the Honours of the Duke of Marlborough on his Posterity by Act of Parliament.

The 21st, Her Majesty came to the House of Peers, and having given the Royal Assent to several Ass, made a Speech, in which she condescended to * signify, that the particular Notice taken of the eminent Services of the Duke of Markborough was very agreeable to her, &c.

Honours be-

About this Time the Queen created Henry, Earl of Kent, Lord Chamberlain of her Majesty's Houshold, Viscount Goderick, in the County of Hereford, Earl of Harrold in the County of Bedford, and Marquis of Kent. Robert Earl of Lindsey, Lord Great-Chamberlain of England, Marquis of Lindsey, in the County of Lincoln: Evelin, Earl of Kingfu, Marquis of Dorchester, in the County of Dorset: Thomas, Lord Wharton, Viscount Winchendon, in the County of Buch, and Earl of Wharton, in the County of Westmoreland: John Lord Poulett, of Hinton St. George, Viscount Hinton St. George, in the County of Somerfet, and Earl of Poulett Sidney, Lord Godolphin, Lord High-Treasurer of England, Viscount Rialton, and Earl of Godolphin, in the County of Cornwall: Hugh, Lord Cholmondeley, Viscount Malpas, and Earl of Cholmondeley, in the County of Chefter: Henry, Lord Walden, Son and Heir Apparent of the Right Honourable Henry Earl of Suffolk, Baron of Chesterford, in the County of Effex, and Earl of Bindon, in the County of Dorfet: The Lord-Keeper, Lord Cowper, Baron of Wingham, in the County of Kent: And, Sir Thomas Pelham, Baronet, Lord Pelham, Baron of Laughton, in the County of Suffex.

The Earl of Nottingham, on the 10th of January, as quainted the House of Peers, that he had something of great Consequence to lay before them, and therefore defired, that they would appoint a Day to receive it, in a full House. The Lords having named the Tuesday following, being the 14th, on which Day the Members, in and about Town, were

Earl of Nottingham's Motion, that the Proceedings on the Union may be laid before the Lords,

Debate on the

^{*} See the Speech entire in CHANDLER'S History, Anno 5 Anna, 1706, page 48.

fummoned to attend, the Earl of Nottingham, in a fet Speech, Anno 5 Anna represented to them, ' That the * Union of the two Kingdoms of England and Scotland, was a Matter of the highest Importance; and a Work of so much Difficulty, that all the Attempts that had been made towards it, in the last Century, had proved ineffectual; that the Parliament of Scotland, having thought fit to fecure the Presbyterian Church-Government in that Kingdom, it became the Wifdom of the Parliament of England, to provide betimes against the Dangers, with which the Church, by Law establifhed, was threatened, in case the Union was accomplished: And therefore he moved, That an Address be presented to the Queen, humbly to defire her Majesty, that the Proceedings, both of the Commissioners for the Treaty of Union. and of the Parliament of Scotland, relating to that Matter, hould be laid before them.'

He was feconded by the Earl of Rochester, who declared, Earl of Re-He was for an Union, and had been fo for twenty Years chefter. past; but that he had a few Doubts in the Matter, and therefore was for entering upon the Debate of that impor-

tant Affair as foon as possible.

The Duke of Buckingham spoke to the same Purpose; Duke of Buckdding, 'That the Union of both Kingdoms had been upon ingham. he Anvil fince the Accession of King James I. to the English Throne; and, as it could not be expected that so weighty a Matter, which took up so much Time and Labour before, should now be compleated in a few Days, therefore he was for taking it forthwith into Confideration.

The Lord High Treasurer answered, 'That this Affair Answer'd by was not yet ripe for them to debate, and that they need the Lord Treas not doubt, but that her Majesty would communicate to surer Godolhe Parliament of England, all the Proceedings about the phia. Union, as foon as that of Scotland should have gone through

with it."

ons of

al for s Ad.

affure

e and

fettle

ty by

and

eech.

cular Marl-

Kent,

count

n the

rl of is of

g fton,

mas,

Bucks,

John .

St. lette

land,

y of

and

Lord

rable

unty The

the

Lord

acgreat

that

oufe.

the

were

fum.

nna,

The Lords Wharton, Somers, and Hallifax, spoke on the Lords Whar-ame Side, and urged, That it was an Honour to this ton, Somers, Nation, that the Treaty of Union should first come ratified rom the Parliament of Scotland; and that then, and not beore, was the proper Time to take the fame into Confideraion. Upon which the other Party finding they were too
weak to carry the Question, the Earl of Nottingham's Moion was dropped.

The House of Lords, upon a Motion of the Archbi-dropp'd. hop of Canterbury, ordered a Bill to be brought in for the

* The Articles of which, and the Opposition made to it in Scotland, tin Chandler's Hift. Anno 5 Anne, 1706, from p. 1, to 31.

Security

1706. An Act for the Security of the land.

Anno 5 Annæ, Security of the Church of England; which being read as cond Time, on the 3d of February, (the Queen and Pring being present) a Question was put, Whether it should be Instruction, by the Leave of the House, to insert in the Kill Church of Eng. the Act made the 35 Car. II. entitled, An Act for the pre venting Dangers which may happen from Popish Recusans Which was refolved in the Negative, by a Majority of firm three Voices against thirty-three. Then another Queffin was put, That it be an Instruction to the Committee of the whole House, to whom the Bill for Security of the Church was committed, that there should be inserted in the said Bill as a fundamental Condition of the intended Union with offer'd thereto. Scotland, particular and express Words, declaring, perpetu and unalterable, an Act of Parliament made the 25 Car. II entitled, An Act for preventing, &c. But this being n folved also in the Negative, occasioned the following Pro-

And rejected.

Amendments

Protest thereon.

We conceive that this Act doth deserve to be particilarly mentioned, and not left to double Confiructions; be cause as it was at first made to secure our Church, then in Danger, by the Concurrence of Papifts and Dissenter w destroy it; so they have found by Experience, both in the Reign of King Charles II. and of King James II. that if was the most effectual Means of our Preservation, by remove ing from their Employments the greatest Enemies of or Church; and particularly in the Reign of the late King Tames II. the assuming of a dispensing Power, and illeg Practices, by closeting and corrupting the Members of Puliament, were chiefly levelled against the Test-Act,'

Northampton, Nottingham, Buckingham, Craven, Thomas Roffen, Guilford, R. Dunelm, Beaufort, Scarfdal, J. Ebor, R. Cestriens, Stawel, Thanet, Anglesea, Howard, Sussex, Weymouth, Granville, Guernsey, Not and Grey.

After which their Lordships went thro' the Bill.

A Debate on the Union.

On the 15th, there was a grand Debate about the Trent of Union, the Queen being prefent. Their Lordships has ing refolved themselves into a Committee of the whole Hou and the Bishop of Salisbury (Dr. Burnet) being called op to take the Chair, the Debate on the first Article was option by the Earl of Rochester, who acquainted the House, had many Things to object to feveral of those Arica which, he faid, it was all one to him, whether their Lordhi would please to receive them now, or when those Article came more properly under their Confideration.

Earl of Rochef-

The Earl of Anglesea moved, ' That the first Article might Anno 5 Anna, be postponed, it being impossible for him to give his Vote to it, before he knew, and was thoroughly fatisfied, wherein this Union was to confift. Several others were of that Opi- Earlof Anglesea. nion, among whom the Bishop of Bath and Wells spoke Bishop of Bath and Wells. much to the same Effect.

The Earl of Nottingham excepted against the Name of Earl of Notting-Great-Britain, alledging, 'Twas fuch an Innovation in the ham. Monarchy, as totally subverted all the Laws of England, and therefore moved, that the Judges Opinion might be asked about it; wherein he was feconded by feveral other Lords: Hereupon, the Judges being feverally asked their Opinions

in that Respect, unanimously declared, They could not conceive that it any ways altered or impaired the Constitution of this Realm, whose Laws, they were of opinion, must remain entirely the same, as well after as before the Union, except such as were altogether inconsistent with, and directly

contrary thereto. Lord Haversham.

dan

Pring

be m

e Ri

e pre

fixm neftion

of the

hurd d Bill

with

petual

ar. II.

ng reg Pro-

artice.

s; be

en in

ers to in the

hat it

emor-

of ou

Kin illega

f Par

boma

, 70

How

North

[reat

s have

Tout

opend H

ticle

dhip

Th

1706

My Lord, What my noble Lord (Rochester) has mentioned to your LordHaversham

Lordships, occasions my standing up; I find myself under the fame Difficulties: I have several things to say to this Matter of the Union, to your Lordships, and 'tis very indifferent to me when I offer them. I have a Right of speaking my Thought; and entering my Protest too, to any thing I dislike, and I shall certainly find some time to do so, before this Matter can pass into a Law. I am in your Lordships Judgment, whether you will allow me to speak what I have to say, now.

'My Lords, With what Disposition I come hither, I hope, may be collected by the Motion I made your Lordships last Year, for repealing certain Clauses that were grievous to Scotland. I would do any thing that was for the

Benefit and Good of both Nations.

'These Articles come to your Lordships with the greatest Countenance of Authority, that I think it is possible any thing can come; your Commissioners have agreed to them; the Scots Parliament has, with some few Amendments, ratified them; and the Queen herself, from the Throne, approves of them; and yet you must give me Leave to say, that Authority, tho' it be the strongest Motive to incline the Will, is the weakest Argument in all the World to convince the Understanding. 'Tis the Argument the Church of Rome makes use of, for their superstitious Worship, where there are ten Ave maries to one Pater noster; just as unreasonable as if ten times the Application and Address were made to a She-tavourite, as to the Person of a Sovereign, which is a kind of State Idolatry.

I would Z

Anno 5 Annæ,

I would not, my Lords, be misunderstood, as if I wen against a Union. A scederal Union, a Union of Interes. a Union in Succession is what I shall be always for; man were it whether a People inhabiting the fame Island, fpeak ing the same Language, and having the same Religion should be under one and the same Form of Policy and Government, I cannot fee how any Man could be against it ; but this is a Matter of a quite different Nature ; it is whether two Nations independent in their Sovereignties, the have their distinct Laws and Interests, and what I cannot forget, their different Forms of Worship, Church-Government and Order, shall be united into one Kingdom.

An Union made up, in my Opinion, of so many milmatched Pieces, of fuch jarring, incongruous Ingredient, that, should it ever take effect, I fear would carry the necessary Consequence of a standing Power and Force, to keep us from falling afunder, and breaking in pieces every Moment : For, as my Lord Bacon well observes, (whom I take to have been a very great Man, though fometimes the Courtier got the better of the Philosopher) A Unity, fays he, that is pieced up by a direct Admission of Contraria in the fundamental Points of it, is like the Toes of Nebs. chadnezzar's Image, which were made of Iron and Clay; they may cleave together, but can never incorporate.

Another Reason why I am against an incorporating Union, is for the fake of the good old English Constitution, juftly allowed to be the most equal and best poized Government in all the World, the peculiar Excellency of which his in that well-proportioned Diffribution of Powers, whereby the Greatness of the Monarch, and the Safety of the People, at at once provided for; and it is a Maxim in all Policy, that the furest Way to preserve any Government, is by a strik Adherence to its Principles : So that whilft this Balance of Power is kept equal, the Constitution is safe; but who can answer what Alteration so great a Weight, as fixty-one South Members, and those too returned by a Scots Privy Council, when thrown into the Balance, may make?

Besides, my Lords, I must own I am apprehensive d

the Precedent, and know not how far it may be carried hereafter, or what Alteration future Parliaments may think fit to make; it is evident, by the two and twentieth Article, that above a hundred Scots Peers, and as many Commoners, are excluded from fitting and voting in the British Parlis ment; who perhaps as little thought of being so a Year or two ago, as any of your Lordships do now; for they had u much Right by Inheritance, of fitting there, as any out Lord in this House has of sitting here; and that Right too, I were

ntereft

; nay,

fpeak.

ligion,

cy and

againf

it is,

s, that

cannot

nmen

y mif-

dients.

ry the

ce, to

every

hom [

es the

, fays

trarie

Neba-

Clay;

rating

ution,

vern-

h lies

by the

e, are , that ftrict

ice of

O CAR

Scott

uncil,

ve of

arried

think

ticle,

ners,

arlia-

ar of

ad as

one v

too,

25

as well and as ftrongly fenced and fecured to them by the Anno s Anne, fundamental Laws of their Kingdom, by claim of Right, and Act of Parliament, which made it Treason to make any Alteration in the Constitution of that Kingdom; and yet have not they lost their Privilege? And what one Security has any Peer of England, by the Laws of this Land, to his Right and Privilege of Peerage that those Lords had not? My Lords the Bishops have once been voted out of this House by the temporal Lords already, and who knows what Question may come hereafter : I will venture my Life in Defence of the Church of England, and yet, at the same time own myfelf an Occasional Conformist. But if, my Lords. the Bishops, will weaken their own Cause so far as to give up the two great Points of episcopal Ordination and Confirmation, if they will approve and ratify the Act for fecuring the Presbyterian Church-goverment in Scotland, as the true Protestant Religion and Purity of Worship, they give up that which has been contended for between them and the Presbyterians these thirty Years; and which I will undertake to prove to my Lords, the Bishops, has been defended by the greatest and learnedest Men in the Church of England. hope, when 'tis proper, my Lords will please to give some Light to one who defires Instruction, that I may not ignorantly do any thing in this Matter.

'There is another Reason why I am against this Union. because I cannot think it an entire Union; the exempted Articles, I mean the twentieth Article, whereby heretable Offices and Superiorities are referved; and also the one and twentieth; both which Oliver, by an Act of State, was fo wife as to abolish; especially their Act for securing their Presbyterian-Church Government, and General Assemblies, feem to me like those little Clouds in a warm, calm Summer's Day, that are generally the Seeds and Attractives of approaching Tempests and Thunder. I the rather take Notice of these, because tho' the Articles of Union are ratified by the Scotch Parliament, yet the Bulk and Body of that Nation seem to be against them. Have not the Murmurs of the People there been so loud as to fill the whole Nation? And so bold too, as to reach even to the Doors of the Parliament? Has not the Parliament itself thought fit to suspend their beloved Clause in the Act of Security, for arming their People during the Session? Nay, has not the Government, by Advice of Parliament, fet out a Proclamation, which I have here in my own Hand, pardoning all Slaughter, Bloodshed, Maiming, &c. that is committed upon any who are found in any Tumults there, and discharging all Profecution for the future? I do not mention this to find fault

Z 2

Anno 5 Annæ, with any thing that is done in Scotland, but only to flew in your Lordships, that when such an unusual Proclamation a this is fet out by Advice of Parliament, and cannot flay the Forms of a Law, when we know that, upon extraordinant Occasions, if it be but to grace a Compliment, a Bill may be read three times in one Day; fure, my Lords, it shews; very great Ferment that requires fo very speedy an Appli-After all, has not what we defire, I mean their he. cation. ing upon the same foot of Succession with us, been offered without this Union? In short, my Lords, I think an incorporating Union one of the most dangerous Experiments to both Nations; in which, if we happen to be mistaken, how. ever we may think of curing Things hereafter, the Error is irretrievable.

> My Lords, this is the last time that I believe I shall ever trouble your Lordships in an English Parliament, give me

Leave therefore to fay but one Word.

In King Charles the First's Time, the Cavaliers were the Persons that ventured their Lives, and lost their Estates m ferve him. And in King Charles the second's Time they were forgot, and left starving. At the Restoration, the Pres. byterians were as zealous for that as any Men whatever, and none were more profecuted all his Reign. Towards the lat. ter End of that Reign, the Bishops threw out the Bill of Es. clusion, and King James put them into the Tower. At the Revolution, the Londonderry Men, &c. were the Persons that made the first and noblest Stop to King James in Ireland; and I myfelf have fed some of them at my own Table, when they were starving with the greatest Commendations and Promises in their Pockets; which I have feen under King William's own Hand. In the last Reign, every body knows who they were that made their most constant Court at St. Fames's; and we see in what Favour they are at this prefent.

Now there is a great deal of Zeal for this Union, I with from my Soul that the Advantages may attend it, of Tranquillity and Security, Power, Peace and Plenty, as is intended by it; but yet it is possible Men may be mistaken, ! won't fay they will ever repent of it; but I will take Leave to fay what I have formerly faid in this Place, that what

has been, may be.'

The Debate being over, the Question was put, Whether the Confideration of the first Article of the Treaty of Union The fix first Ar- should be postponed till all the other Articles had been exmined: But the Negative carried it by a Majority of feventytwo Voices against twenty-two; and so the first fix Articles were read and approved, and the Confideration of the ref adjourned

ticles approved by the Lords,

adjourned to the 19th, when the Lords refumed the Confi- Anno 5 Anna,

deration of the Treaty.

iew to

ion as

ly the

linary

ay be

ews 2

Appli-

ir be.

ffered

incor-

its to

how.

ror is

ever

e me

Were

tes to they

Pref.

, and e lat.

Ex-

t the

s that

land;

able,

tions

inder

body

Court

this

with

ran-

10-

en, I

eave

what

ether

nion

exa-

enty-

icles reft

rned

The Lord North and Grey observed, with relation to the ninth Article, ' the small and unequal Proportion Scotland Lord North and was to pay to the Land-Tax, urging, that Wales, as poor a Grey. Country every whit as that, and of a much leffer Extent. paid to the full as much again, and yet fent not much more than half the Number of Representatives to Parliament, which were granted to Scotland, and for that Reason his Lordship said, he could not agree to that Article.'

He was answered by my Lord Hallifax, . That the Num-Lord Hallifax, ber of Representatives was no Rule to go by, fince there was the County of Cornwall of England, that paid not near fo much towards the Land-Tax as that of Gloucester, and yet fent almost five times as many Members to Parliament as the latter did. That it was very true the Quota of Scotland was very small and unequal, in comparison to what was paid in England; but that the English Commissioners could not induce the Scotch to agree to any more, upon Account of feveral Impossibilities on their Side; that we could not expect to reap the like Advantages of every Article of the Treaty; and that if they had the better of us in some few, we were infinitely recompensed by the many Advantages which did accrue to us from the whole.'

The House divided again on this Article, there being se. The 9th, 10th, venty contented with it, against twenty-three not contents, 11th, 12th and and so having run over the four following ones, the Consi-approved, fideration of the rest was further adjourned to the 21st, when (the Queen being present) the Debate chiefly run on the fifteenth Article.

13th Articles

The Earl of Nottingham observed, it consisted of two Parts, Earl of Nottingviz. a certain Grant of Money, and the Application thereof, ham. in reference to which he faid, ' That is was highly unreaionable, that the Scots, who were by the Treaty let into all the Branches of our Trade, and paid so little towards the Support of the Government, and of a most expensive and bloody War, should moreover have an Equivalent of 398085 1. given them for coming into that Treaty. He infifted much upon that Argument, and took Notice, as to the Disposal of the Equivalent, that that Part of it which was given to the Darien Company, was so ordered, as that it might be swallowed up by a few Persons, without any particular Regard to the indemnifying every private Sufferer in that unhappy Enterprize.'

The Lord Hallifax answered, . That this Equivalent Lord Hallifax. could not be looked upon as a Gift, but as an actual Pur-

anno 5 Annæ, chase of the Scots Revenue and Customs, which, by this Union, were to be applied to the Payment of the Debts of England; and that they were no more Gainers by it, than we were here by the Sale of Annuities at 15 or 16 Years Pur. chase: That as to the Disposal of the Money, it being their own, it was but reasonable they should have the Liberty of applying the same, as they thought most convenient, the English Commissioners being no ways concerned therein: whose Care, nevertheless, and great Prudence had been such. that they made Provision it should not be disposed of, but by certain Commissioners who should be accountable for the same to the Parliament of Great-Britain.'

The 15th, 16th, 17th, 18th and 19th Articles approved. Earl of Thanet.

Their Lordships this Day proceeding as far as the 19th Articles, adjourned to the 24th, when (the Queen being still present) the Earl of Thanet, on the 20th Article, acquainted their Lordships, 'That himself having an heretable Office here in England, by being perpetual Sheriff of the County of Westmoreland, * he would be glad, with their Lordships leave, to have the Opinion of the Judges, about the Preservation of that his Right, there being no Provision made in this Article for heretable Offices in England.'

Marquis of Lindsey.

The Lord great Chamberlain (Marquiss of Lindler) feconded him in that Motion, faying, ' He had the Honour likewise of having such an heretable Office, as was then in Question, about the Preservation whereof he had the very fame Doubts and Scruples with the noble Peer that spoke last: Whereupon it was agreed, that the Judges should deliver their Opinion about it, which they accordingly did, from the puisne Judge, to the Lord Chief Justice, whose Answers were near the same, with what they had declared to the House, to be their Opinion, with respect to the first Article.

Earl of Rochefter.

The Earl of Rochester, after reading the 22d Article, declared, 'He looked upon it as incongruous, contradictory to, and inconsistent with itself; that there were 16 Peers to be returned to the House of Lords in the Parliament of Great Britain, who were Peers and no Peers: That being all Peers by Right of Inheritance, they were nevertheless made here elective, he took to be divesting them of their Peerage; because not being sure of being always elected to every Parliament of Great-Britain, they consequently must lose, when left out, the Benefit of fitting in Parliament, what was ever deemed an inseparable Right of the Peerage: That the rest of the Nebility of Scotland, to the Number of above 100, were thereby manifestly injured; and that, for his Part, he wondered

^{*} The Earl of Thanet was hereditary Sheriff of Westmoreland, as being descended from the Family of the Cliffords, and they again from the Viponts.

wondered very much, how the Scots came to accept of such Anno 5 Annu, unreasonable Conditions; or how their Lordships could entertain the Thoughts of permitting such Peers by Election to

fit among them.

his

we

eir

of

he

n;

by me

ing

ac-

ta.

the

rd.

the

ion

fe-

our

in

ery

A :

the

ere

, to

de-

OTV

s to

reat

eers

nere

ge;

rery

ole,

Was

the

00,

, he

ered

s bee

the

The Lords Nottingham, North and Grey, &c. very much Lords Nottingenforced this Topic, adding, 'That as one might very well ham, North and suppose, that those Scots Peers would be such as were addicted Kirk, it might prove of a dangerous Consequence to the Church of England.'

The Earl of Wharton replied, 'That tho' they were all Earl of Wharnever so much of the Kirk Party, yet there was no Reason ton. to sear, but they would also be very well disposed for the Church of England, and stand up in its Defence on all Occasions; since there were even some fitting amonst their Lordships who would venture their Lives for the Church of England, and yet openly declared themselves to be at the same time Occasional Conformists.'

The Lord Haversham, rightly judging he was hinted at LordHaversham, by that noble Peer, stood up to inform the House, what he understood by an Occasional Conformist; (in which Explanation he appeared somewhat gravelled:) For after having made a long Encomium on the Episcopal Order, which he took to be the best and most conformable to primitive Christianity, he gave no less Commendation to all the Protestant Churches Abroad, and to the Kirk of Scotland itself, in particular; which, he said, was a true Protestant Church.

The Bishop of Bath and Wells, after begging Pardon for Bishop of Bath troubling their Lordships on this Account, and saying that and Wells .. if he spoke any thing out of the way, he was under their Correction; ' That, for his Part, he was altogether against the Union, which he could wish with all his Heart had been compleated an hundred Years ago; because, said he, all the Ferment and Discord which were likely to ensue upon it. would by this time have bad their Course: That he could no better compare it, than to the mixing together throng Liquors, of a contrary Nature, in one and the fame Veffel, which would go nigh to be burst asunder by their furious Fermentation: That as their Bench was always reckoned the dead Weight of the House, so those fixteen Peers being admitted to fit therein, would more effectually make it so, especially in any future Debates relating to the Church, towards which they could no ways be supposed to be well affected; and therefore he was humbly of Opinion, that some Provision might be made for debarring them of their Vote in any Church Matter that should hereafter come in Agitation."

The Lords Somers, Hallifax, and others, made very per Lords Somers tinent Answers to those Objections, after which the Debate and Hallifax,

ended

Anno 5 Annæ, ended in a general Division of the House, there being seventy one Contents for the twenty second Article, against twenty 1706. two Not contents.

Earl of Arran.

Earl of Nottingham.

After the reading the last Article, the Earl of Arran moved that the Judges Opinion might be asked, what Laws would be repealed by this Union, and what would remain in Force, but that Motion was rejected: Upon which the Earl of Not. tingham stood up and begged their Lordships Pardon for hav. ing troubled them almost to every Article, urging there were fuch material Objections occurring to his Thoughts, as in Conscience he thought himself obliged to lay before the House: That as Sir John Maynard made this Compliment to the late King, at the Revolution, that having buried, upon account of his great Age, all his Cotemporaries in Westminster-Hall, he was afraid, if his Majesty had not come in that very Juncture of Time, he might have likewise outlived the very Laws themselves; so, if this Union did pass, as he had no Reason to doubt but it would most certainly, he might with as much Reason, and as justly affirm, he had out-lived all the Laws and the very Conflitution of England; concluding with a Prayer to God, to avert the dire Effects which might probably enfue from fuch an incorporating Union.

The Treaty of by the Lords,

Three Days after, the Bishop of Sarum reported to the Union approved House of Lords, the Resolutions of their grand Committee, for approving the Articles of Union, which were agreed to by a great Majority; but several Peers made and entered the following Protest.

Protest thereon.

Diffentient'

We diffent to every one of the twenty five Resolutions. Granville, Haversbam, Stawell.

I diffent to the four last Resolutions, having not been prefent at the passing the others.

Geo. Bath and Well.

I diffent to every one of the twenty five Resolutions, except the fecond.

Beaufort.

I diffent to the first, fourth, fifth, fixth, ninth, fifteenth, eighteenth, nineteenth, twenty first, twenty second, and twenty fifth Resolutions.

Abing don.

Diffentient' To the Ninth Resolution.

Because we humbly conceive the Sum of 48000 l. to be charged on the Kingdom of Scotland, as the Quota of Scot. land, for a Land-Tax, is not proportionable to the 4s. Aid, granted

granted by the Parliament of England; but if, by Reason of Anno 5 Anna, the present Circumstances of the Kingdom, it might have been thought it was not able to bear a greater Proportion, at this time, yet we cannot but think it unequal to this Kingdom, that it should be agreed, that whenever the 4s. Aid shall be enacted by the Parliament of Great-Britain, to be raised on Land in England, that 48,000l. now raised on Scotland, shall never be increased in Time to come, tho' the Trade of that Kingdom should be extremely improved, and confequently the Value of their Land proportionably raised, which in all probability it must do, when this Union shall have taken Effect.

North and Grey, Rochester, Howard, Leigh, Guilford.

To the 15th Resolution.

enty

enty

oved

bldo

orce,

Not-

hav.

were

s in

the

nent

ied,

in

ome

out-

oals.

, he

had

nd;

ects

ting

the

tee,

d to

red

11.

ore.

11.

ex-

t.

th.

and

77.

be

cot-

id,

ted

Because we humbly conceive nothing could have been more equal on this Head of the Treaty, than that neither of the Kingdoms should have been burdened with the Debts of the other, contracted before the Union; and if that Proposal which we find once made in the Minutes of the Treaty, had taken Place, there would have been an Occasion to have employed the Revenues of the Kingdom of Scotland towards the Payment of the Debts of England, those Revenues might have been strictly appropriated to the Debts of the Kingdom, and to any other Uses within themselves as should have been judged requisite, and there would have been no need of an Equivalent of very near 400,000/. to be railed on England, within this Year, for the Purchase of those Revenues in Scotland, which, however it may prove to be but a reasonable Bargain, upon a strict Calculation, there does not feem to have been a Necessity just now to have raised so great a Sum, when this Kingdom is already burdened with so vast ones, for necessary Charges of the War.

Rochester, North and Grey, Guilford, Leigh.

Dissentient. To the 22d Resolution.

Because we humbly conceive, in the first place, that the Number of fixteen Peers of Scotland, is too great a Proportion to be added to the Peers of England, who very rarely confift in more than an hundred attending Lords, in any one Session of Parliament, and for that Reason we humbly apprehend, such a Number as sixteen may have a very great Sway in the Resolutions of this House, of which the Consequence cannot now be foreseen.

In the second place, we conceive the Lords of Scotland, who by virtue of this Treaty are to fit in this House, being not qualified as the Peers of England are, must suffer a Diminution of their Dignity to fit here on so different Founda-

1706. Aa 1706.

Anno 5 Anna, tions; their Right of fitting here, depending entirely on an E'ection, and that from time to time, during the Continu. ance of one Parliament only; and at the same time, we are humbly of Opinion, that the Peers of England, who fit here by Creation from the Crown, and have a Right of so doing in themselves or their Heirs, by that Creation for ever, may find it an Alteration in their Constitution, to have Lords added to their Number, to fit and vote in all Matters brought before a Parliament, who have not the same (Right) of their Seats in Parliament, as the Peers of England have.

Buckingham, North and Grey, Leigh, Rochester, Guilford.

We diffent to the Resolution of passing the last Article, because there being no Enumeration of what Laws are to be repealed, it is conceived, too great a Latitude of Confinetion thereupon is left to the Judges.

Rochester, Leigh, North and Grey, Guilford.

A Rider offered to the Bill of Union by the Lord North and Grey.

March the 1st, The Commons sent up a Bill for uniting the two Kingdoms, by Mr. Compton, to the House of Lords, who gave it a quick Dispatch; but, upon reading it the third time, the Lord North and Grey offered the following Rider to be added to it, viz. Provided always that no thing in this Ratification contained, shall be construed to extend to an Approbation or Acknowledgment of the Truth of the Presbyterian Way of Worship, or allowing the Religion of the Church of Scotland, to be what it is stiled, the true Protestant Religion."

But, after a Debate, the Question being put, Whether the faid Rider should be read a second time? It was carried in the Negative, by a Majority of fifty-five Voices against

nineteen.

Protest thereon.

Diffentient'

Beaufort, Buckingham, North and Grey, Anglesea, Winchelsea, Northampton, Abingdon, Nottingham, Scarsdale, Gu. Bath and Wells, Thanet, Granville, Stawell, Guerny, Weymouth, Guilford, Leigh.

Protest against of the Union,

Then the Question was put, Whether this Bill should the Ratification pass? Which was resolved in the Affirmative, by a great Majority. The Peers who entered their Diffent were their that follow :

Diffentient'

Nottingham, Anglesea, Thanet, Winchelsea, Northampton, Scarsdale, Weymouth, Guernsey.

Because the Constitution of this Kingdom has been to very excellent, and therefore justly applauded by all our Neighbours for fo many Ages, that we cannot conceive it prudent

prudent now to change it, and to venture at all those Altera- Anno 6 Anna, tions made by this Bill, some of them, especially, being of such a Nature, that, as the Inconvenience and Danger of them (in our humble Opinion) is already but too obvious, some think it more proper and decent to avoid entering further into the particular Apprehension we have from the passing of this Law.

1707.

Beaufort, Buckingham, Stawell, Guilford, Granville.

This important Bill received the Royal Affent March the 6th, at which Time her Majesty made a Speech to both Houses, and they presented a joint Address in return; both of which are to be found in CHANDLER's Hift. Anno 6 Anna, 1706, Page 59, as is likewise the Queen's Speech at the

Close of the Session, Page 69.

an

nu.

are ere

ing

nay

ords

ght

neir

d.

cle,

be

uc-

d.

ing

rds,

the

ing

no-

l to

roth

Re-

the

the

d in

inf

chel-Ges.

nsey,

ould

reat

hefe

ôton,

n fo

out

ve it

dent

With regard to our Foreign Affairs, tho' the Elector of Affairs Abroad. Bavaria had, in a Letter to the Duke of Marlborough, propoled, in the Name of the most Christian King, to treat of a Peace, no fuch Thing enfued: And tho' the War was still carried on, the two grand Armies in Flanders faced one another the whole Summer, and at last broke up without performing any thing worth Notice. An Attempt was besides made on Toulon, which did not succeed. The French carried all before them on the Rhine: And in Spain, by the Battle of Almanza, King Charles was reduced to the fingle Province of Catalonia.

April the 29th, Her Majesty had issued out her Royal Proclamation, containing her Declaration, that the Parliament of England then in being, and the fixteen l'eers and forty five Commons chosen by the last Parliament of Scotland, should constitute the first Parliament of Great Britain, which by another Proclamation iffued out not long after, was to meet at Westminster on the 23d of October following.

Accordingly on that Day

The First Parliament of GREAT BRITAIN

ET at Westminster, and thirteen of the Scotch Peers Were admitted to their Places, being introduced each of them by two English Peers of the same Rank, and Nov. the 6th her Majesty made a Speech to both Houses, which see in Chandler's Hist. Anno 6 Annæ, 1707, Page 70.

It was expected, according to Custom, that the Lords Debate on the would have begun with an Address of Thanks to the Queen; Address of but when her Majetty's Speech came first to be consider'd Thanks. but when her Majesty's Speech came first to be consider'd, the Earl of Wharton made an elaborate Harangue, wherein, Earl of Wharamong other things, he took notice of the great Decay of .ton. Trade, and Scarcity of Money. He was seconded by the Lord Somers. Aaz

Lord

Earl of Rochef-

Anne 6 Annæ, Lord Somers, who likewise enlarged upon the ill Condition and late Milmanagements of the Navy: So that when the Earl of Stamford moved for an Address to her Majesty, to Earl of Stamford, return her Thanks for her most gracious Speech, he was op-Duke of Buck- posed by the Duke of Buckingham, the Earl of Rocheffer, and the Lord Guernsey, who faid, they ought, in the first place, to confider the State of the Nation. Upon which it Lord Guernsey, was order'd, that the State of the Nation should be taken into Confideration on the Wednesday following, in a Committee of the whole House. Accordingly, the Lord Herbert of Cher. bury, being Chairman, a Petition given in by the two Sheriffs of London, and subscribed by above two hundred of the most eminent Merchants in the City, was read, complaining of the great Losses they had lately sustained at Sea, for want of Convoys and Cruizers, and begging a speedy Remedy. As ter the reading of this Petition, which was presented to the Committee by the Earl of Wharton, his Lordship began the Debate, by laying open the miserable Condition of the Nation, and the great Decay of Trade. Several other Peers spoke to the same Effect, and, among the rest, the Lord Haversham as follows:

Earl of Wharton.

My Lord Herbert,

Lord Haverfham.

I was so unfortunate as not to be in the House when your Order was moved for, but thought it my Duty to pay Atten. dance upon so extraordinary Occasion. I know it is generally look'd upon as a Mark of great Weakness and Imprudence, to attempt Impossibilities: That Man would scarce be thought in his right Senses, that should endeavour to stop the Tide at Gravesend with his Thumb ; and not rather suffer it to take its own Course, as knowing that it will as furely have its Ebb, as it will its Flux; but yet there are some Cales wherein the universal Practice of Mankind shews the Miltake of this Maxim. Who is there, that, feeing his Parent languishing, and in an irrecoverable Consumption, would not think it his Duty to give him all the Affistance in his Power, tho' he was morally certain, all his Endeavous would prove ineffectual, and the fatal Hour was just ap proaching? Nay, does not every Man endeavour to preferve his own Life, while, at the same time, he knows, that Death itself is most unavoidable?

t

b

in

This I take to be the present Case of England (lake your Lordship's Pardon, that I have not yet forgot that be loved Name) I mean Britain. Our Condition is very low and desperate, and yet I think myself obliged to do all I can towards the helping of a poor finking Island, tho' lan convinced, at the same time, it will prove very infignificant

My Lords, The two Things you have now under your

Confideration, your Fleet, and your Trade, have so nead a Anno 6 Anna Relation, and such mutual Instruence upon each other, they cannot well be separated: Your Trade is the Mother and Nurse of your Seamen; your Seamen are the Life of your Fleet, and your Fleet is the Security and Protection of your Trade, and both together are the Wealth, Strength, Secu-

rity and Glory of Britain.

ion

the

to

op-

fer,

first

h it

nto

e of

ber.

riffs

noft

the

of

Af-

the the

Va-

ers

ord

100

en-

illy

ice,

ght

ide

to

ave

ales Aif-

ent

pld

his

purs

ap.

ore-

hat

alk

be-

11

am ant.

out out

And this is so manifest, that those who have written upon these Subjects, whether Foreigners, or among ourselves, have owned it, which makes it assonishing, that a Thing so clear and evident, and wherein our Interest and safety does so much consist, should be postpon'd to any foreign Consideration whatsoever, wherein we are less concerned: But we are so unhappy, as to struggle with so many complicated Difficulties, that what is proper for one thing, is prejudicial to another,

My Lords,

'I must make the same Apology for myself as that noble Lord did (the Earl of Wharton) who first began this Debate; though I may speak very plainly, it is with a very honest Intention of Service, and a very real Sense of our great Losses and Missortunes. His Lordship has spoke so very well, and so fully too to these Points, that whatever I can say upon the same Subject, will, after what has been said by him, come from me with a very ill Grace, yet give me leave, my Lords,

to speak a Word or two.

Your Disasters as Sea have been so many, that a Man scarce knows where to begin. Your Ships have been taken by your Enemies, as the Dutch take your Herrings, by Shoals, upon your own Coasts; nay, your Royal Navy itself has not escaped: And these are pregnant Missfortunes, and big with innumerable Mischies; your Merchants are beggar'd, your Commerce is broke, your Trade is gone, your People and Manusactures ruined, the Queen has lost her Customs, and the Parliament must make good the Desiciencies; while in the mean time our Allies have an open and flourishing Trade, and our Enemies make use of both our own Ships and Seamen too against us.

'There is yet a further Grievance, when, through a thousand Difficulties and Dangers, the honest Trader has brought home some small Effects, he is fallen upon, and oppressed by vexatious and unjust Prosecutions: I mention this with relation to the Union, and shew, that though I was always against it, yet since it is made, I am for keeping

firmly and exactly to it.

My Lords, the Face of our Affairs is visibly changed in the Space of one Year's Time, and the Temper of the Na-

tian

Anno 6 Annæ, tion too. Formerly Men stifled their Misfortunes, and were afraid of whispering them out for fear of being overheard Now, it is hard to stop their Mouths, or keep and undone. them within any Bounds, the moving Objects of Sorrow we meet with every where, the Tears of the Fatherless, and Cries of the Widows, have raifed both a Compassion for the Dif. treffed, and Resentment and Indignation against the Author of these Misfortunes; and the very Flames which of late have flown abroad, no body knows from whence, and Papen which have been cryed in your Streets, are all Marks of the great Ferment the Nation is in.

My Lord, you are now upon the great Enqurity, by what Ways and Persons, we have been brought into this miserable Condition; I think it very indifferent which way you proceed. It seems reasonable that those Lords who first moved this Order, should put it into what Method they please; but I must take leave to say, that, begin where you will, if youde not end with the Ministry, we shall be in a worse Condition,

in my Opinion, than we were before,

As to the Admiralty, if the Prince's Council have com. mitted any Fault, it is very fit they should have what they deferve, but I hope no Perfuasion will prevail with the Prince himself to lay down that Commission. The Navy I think is fafer in his Hands, than in any other Man's whatfoever; and I'll give your Lordship my Reason for it. He has Advantages no other Person can pretend to: He owes not his Commission to the Favour of any great Minister whatsoever, nor is he within the Reach of their Power; he stands upon a much more unshaken and firm Foundation; and if there be any Mistake, it is impossible to be the Effect either of the Fear, or the Anger of a great Minister, or a Care to please

t

0

i

tl

t

in

d

A

er

re

Ca

do

th

fe

1

' My Lord, I take the Root of all our Misfortunes to be in the Ministry; and without a Change of the Ministry, in my Opinion, no other Remedy will be effectual: It may perhaps be told by fome Lord, that I arraign the Ministry. know that is not proper here, yet every Lord has Liberty of speaking his Thoughts freely, and taking notice of any thing he thinks a Grievance to the Nation: And it is under this Notion of Complaint, and from a Sense of our miserable Condition, that I say this to your Lordships; and if I west not confident I stand upon sure Ground, I should not venture thus far; but I have my Justification in my Hand. And now, my Lords, it is fit I should prove what I say.

Should I mention the Breach of the first, fourth, and lat Articles of the Union, I am within your Order, and those

1707.

Lords who serve at present for the North Part of Britain, I Anno 6 Anna, am confident, have heard of a Complaint and Address of the Royal Boroughs; and I might remember the Disappointments we have met with in Spain; but I hope those two Points will be fome time or other confider'd. I'll therefore keep myself for Proof strictly to your Petition, and I think nothing is more evident than that your Ministry has been the Cause of these Misfortunes. And the Argument which convinces me of it is drawn from an Address of your Lordhips in 1704, which I have in my Hand. I know before whom I speak, the Queen is a Princess of that consummate Wisdom, as not to do any thing without the Advice of her Ministry; your Lordships did then most humbly advise and address her Majesty, that particular Care might be taken of those two Points, none but those that have her Majesty's Ear could prevail to the contrary, and the want of following your Lordships 'Advice has lost the Nation near ten Millions fince; and therefore it evidently follows, that your Ministry have been the Occasion of these Losses.

'In short, my Lords, for I'll trouble you no farther; let our Misfortunes be skin'd over as they will, if they fester and throb, and are foul at bottom, they will certainly break

out with incurable Rage and Fury.

But notwithstanding all his Lordship's Eloquence, all these

Complaints ended in Smoke.

ère

aro

ate

ers

the

hat

ble

-010

ved

but

1 do

ion,

om.

they

ince

ink

ver;

Ad-

his

ver,

pon

here

f the

leafe

to be

y, in

per-

7. I

berty

any

under

erable

were

nture

And

d lat

thole

Lords

December the 18th, The Queen came to the House of Peers, and having given the Royal Affent to feveral Bills, made a * Speech to both Houses, signifying principally, that the should look upon those who best assisted her in bringing the War to a happy Conclusion, as the most proper Objects

of her Favour and Encouragement.

And the next Day enfued a long and memorable Debate Debate about in the House of Lords, in relation to the Affairs of Spain, the Earl of Pel the Queen being present, incognito, till five of the Clock in terborough and the Afternoon. The Earl of Rochester Spoke first The Earl of Rochester spoke first, and hav- Spain. the Afternoon. ing commended the Earl of Peterborough's Courage and Con- Earl of Rochesduct, and enumerated his Services, faid, . It has been a con- ter. flant Custom, that when a Person of Rank, that had been employed Abroad, in so eminent a Post as his Lordship had, returned Home, he had either Thanks given him, or was called to an Account: Urging, that the same ought to be done in relation to the Earl of Peterborough.

The Lord Hallifax, who spoke next, enlarged likewise on Lord Hallisax. the Earl of Peterborough's successful Services, but cunningly put off the returning him Thanks, till the whole Tenor of his Conduct had been examined, than which the Earl himfelf professed, he had nothing more at heart.

See this Speech entire in CHANDLER'S History, Anno 6 Anna, 1707, Page 75.

rough.

Anno 6 Anna, The Lord Haversham was not filent: But having highly extolled my Lord Peterborough's Valour, Skill, and Successes. made a fide-wind Reflection on the Earl Galloway, faying, LordHavershame ' It was no wonder our Affairs in Spain went so ill, fince the Manangement of them had been entrusted to a Foreigner,

Hereupon several Members shewed the Necessity of carrying on the War, till the whole Monarchy of Spain was reco. vered, and King Charles feated on his Throne; and among Earl of Peterbo- the rest the Earl of Peterborough faid, They ought to give the Queen nineteen Shillings in the Pound, rather than make Peace upon any other Terms, adding, That if it were thought necessary, he was ready to return to Spain, and

ferve, even under the Earl of Galloway."

ter.

This naturally brought on the Confideration of Ways and Means to retrieve the Affairs of Spain, in relation to which Earl of Rochef- the Earl of Rochefter faid, That we feemed to neglect the principal Bufiness, and mind only Accessaries; adding, he remembered the Saying of a great General, the old Duke of Schomberg, viz. . That the attacking France in the Ne therlands, was like taking a Bull by the Horns: And there fore his Lordship proposed, ' That we should stand on the defensive in Flanders, and send from thence 15 or 20,000 Men into Catalonia' That noble Peer was seconded by the Earl of Notting Earl of Nottingham, who complained of Spain being in

manner abandoned.

Duke of Marl-

berough.

But the Duke of Marlborough undertook to shew, the with some Warmth, the Danger of such an undigested Coucil, and the Necessity of augmenting, rather than diminish ing our Forces in Flanders. The two chief Reasons his Gna urged were, ' 1/1, That most of the Enemies strong Place there, might be kept with one Battalion in each; where the great Towns of Brabant, we had conquered, required twenty times that Number of Men for their Preservation. adly, That if our Army in the Netherlands was weakened, and the French, by their great Superiority, should gain any confiderable Advantage, which it was not improbable the might, the discontented Party in Holland, who were not few, and bore with Impatience the necessary Charges of the War, would not fail crying aloud for Peace.'

Earl of Rochef-

Hereupon the Earl of Rochester said, . He wondered that noble Peer, who had been ever conspicuous for his Call ness and Moderation, should now be out of his Temper adding, that there being an absolute Necessity to success Spain, his Grace would oblige their Lordships, if he would let them know, where they might get Troops to fend the ther; and the more, because the Earl of Peterborough in that very Day affured them, that he had heard Prince Engli

f

fay, That the German Soldiers had rather be decimated than Anno 6 Anna fent into Spain.

The Duke of Marlborough answered, for the Cause of having shewn some Warmth, by saying, ' The Thing was Duke of Marle of too great Importance to be spoken of without Concern-borough, ment: And as for the Question proposed by the Earl, he added, 'That altho' it was improper to disclose secret Proiects in fo great an Assembly, (to which that Day many Strangers had been admitted, by the Favour of the Queen's Presence) because the Enemy would not fail being informed of them; yet, to gratify their Lordships, he might affure them, that Measures had been already concerted with the Emperor for the forming an Army of 40,000 Men, (whom he specified) under the Command of the Duke of Savoy, and for fending powerful Succours to King Charles; adding, it was to be hoped, that Prince Eugene might be prevailed with to go and command in Spain, in which case the Germans would gladly follow him thither. The only Difficulty which his Grace faid might be objected against this Scheme, was the usual Slowness of the Court of Vienna; to which Purpose he took Notice, that if the 7000 German Recruits, which the Emperor had promised for the Army in Piedmont, had arrived time enough, the Enterprize against Toulon might have been attended with Success: But that it was to be hoped, and he durit engage his Word for it, that, for the future, his Imperial Majetty would punctually perform his Promises." Whereupon the Debate ended.

The same Day their Lordships resolved, That no Peace The Lords Vote could be fafe or honourable for her Majesty, or her Allies, against any Peace if Spain and the Spanish West-Indies were suffered to continue unless Spain was in the Power of the House of Bourbon. They also agreed taken from the upon an Address to her Majesty, that she would use pressing bon. Instances to the Emperor to send powerful Succours to Spain, and to use his utmost Power and Interest for strengthening the Army on the Rhine, which was now happily put under the Command of the Elector of Hanover. The Commons joined in this Address, and the Queen answered, December the 23d, "She was fully of their Opinion, that no Peace Queen's Answer: " could be honourable or fafe for them, or for their Allies, " till the entire Monarchy of Spain be restored to the House

" of Austria." All this while the Lords had under Consideration the Business of Spain, and the Grievances of the Merchants. In reference to the last, their Lordships having maturely confidered the Complaints against Captain Kerr, presented the following Address to her Majesty:

1706.

ghly

fles, ing,

the

ner. ying

reco.

nong

give nake

Were

and

and

hich

the

g, he Duke

Ne.

here-

the

,000

y the

in a

tho

Coun-

nist-

race

laces

eres nired

tion.

ened,

n any

they

not a

f the

that

alm-

n per;

ccon

d this

had

agen 如

May

Anno 6 Annæ, 1707. Lords Address

Lords Address concerning Capt. May it please your most excellent Majesty,

TE your Majesty's most dutiful and obedient Subjects the Lords spiritual and temporal in Parliament asfembled, do humbly inform your Majesty, that there has been laid before this House by Mr. Thomas Wood, in behalf of himself and divers other Jamaica Merchants, a Complaint against Captain William Kerr, late Commander of a Squadron of your Majesty's Ships at that Island, for refusing to grant Convoys for their Ships to the Spanish · Coast of America; and in particular, that the faid Mr. · Thomas Wood had offered to the faid Captain Kerr the Sum of 600l. as a Gratuity, if he would order one of your Majesty's Men of War under his Command, to go as Con. voy to the Neptune Sloop, and Martha Galley, loaded with Woollen and other Goods of your Majesty's Subjects. . That the faid Captain Kerr at that Time feemed pleafed with the Proposal, and said, the Windsor should be the Ship, and ordered Mr. Wood to make what Dispatch he could in getting the Galley and Sloop ready. On which · Encouragement he got them ready to fail, and bought three hundred Negroes to put on Board them; and then at quainted Captain Kerr therewith, and with the great 6 Charge he was at in maintaining the Negroes, and his Fear of their Sickness. Captain Kerr then said, he feared he could not spare a Man of War, but the next Day sent Mr. Tudor Trevor, Captain of the Windfor, to acquaint Mr. Wood, that Captain Kerr faid, he thought Mr. Wood could onot have offered less than 2000, or at least 1500l. Where upon Mr. Wood declared the Sum was fo great, that the Trace could not bear it, and so the Sloop and Galley proceeded on their Voyage without Convoy; and in their Return, the Sloop, loaded with great Wealth, being purfued by France Privateers, and having no Convoy, and crouding too much Sail to get from the Enemy, was unhappily overlet and · loft.

The faid Mr. Thomas Wood also made another Complaint, that upon a further Application to the said Mr. Kerr, for a Convoy for three Sloops bound for the said Spanish Coast, he promised to give the Experiment Man of War, commanded by Captain Bowler, as a Convoy, for which the said Mr. Wood agreed to give 8001; 400l. Part

thereof, was paid to the faid Bowler, and the other 400l.
was made payable by Note to one Mr. Herbert, for the
Use of Mr. Kerr, which Note was sent in a Letter to Mr.

Kerr, and by him put into Mr. Herbert's Hands: And besides that, as a further Encouragement for allowing the

faid Convoy, Mr. Kerr had an Adventure of 1500l. in the

faid Sloops, without advancing any Money. To this Complaint Mr. Kerr put in his Answer, and both Parties were
fully heard by themselves, and their Witnesses; and upon
the whole Matter, the House came to this following Resotion, That the said Complaint of the said Mr. Wood against
the said Captain Kerr, as well in relation to the Neptune
and Martha Galley, as also in relation to the other three
Sloops that went under the Convoy of the Experiment
Man of War, hath been sully made out and proved to the
Satisfaction of this House.

These Matters we think ourselves bound in Duty to lay before your Majesty, as being of the highest Consequence to the Trade of your Majesty's Subjects, whereupon the Wealth and flourishing Estate of the Kingdom doth so ma-

nifeftly depend.

eds

t af-

be-

8, 2

nder

, for

anish

Mr.

Sum

Your

Con-

with

ects.

aled

the

n he

hich

hree

ac.

reat

his

ared

fent

Mr.

ould

ere-

rade

eded

the

ench

och

and

om-

Mt.

faid

n of

for

Patt

ool.

the

Mr.

And

the

the

aid

We do also think ourselves obliged to inform your Majesty, that in the Examination of these Complaints, we find divers corrupt and unjustifiable Practices of the like kind (tho' not attended with altogether fuch aggravating Circumstances) have been too frequent in your Majesty's Fleet: And we are humbly of Opinion, that nothing can be of more pernicious Consequence than the suffering such Abuses to proceed with Impunity: And therefore we befeech your Majesty to be pleased to give such effectual Orders and Directions, as shall for the future prevent the like corrupt Doings, to the Oppression of the Merchants, who at this time lie under many heavy Discouragements. And we do humbly hope, your Majesty will be pleased to declare in such a Manner as may be most public and effectual, to all Commanders of Squadrons, and Captains of Men of War, that their Care and Diligence in attending, protecting, and securing the Trade of your Majesty's Subjects, when any Charge of that Nature should be committed to them, or when they shall have any Opportunity of doing it, shall be a fure, particular, and principal Recommendation of them to your Majesty's Favour, in any of their Pretentions to Promotion in your Majesty's Service.'

To this Address, the Queen was pleased to make the fol-

lowing Answer, viz.

HAT her Majesty would take care, in the most Queen's Aneffectual Manner, to discourage the Abuses and ill swer.

Practices complained of in that Address, and to prevent
the like for the future; and the House might be affured,
that her Majesty would always countenance with her Favour, such Commanders and Officers, who should discharge their Duty by protecting and securing the Trade of
the Nation."

Bb 2

February

Anno 6 Annæ, 1707-8.

ing the Union more complete paffed.

Protest thereon.

February the 7th, Hodie 3ª wice letta eft Bill, entitled, An Act for rendering the Union of the two Kingdoms more entire and complete, by which one Privy Council was to ferre Bill for render- for the United Kingdoms.

The Question was put, Whether this Bill shall pais?

It was resolved in the Assirmative.

Diffentient'

1 ft, Because the Clause of this Bill, which relates to the Privy Council, determines the Privy Council of Scotland, to foon as the first Day of May next, by which time the Pro. vision made in the same Bill, instead of the Privy-Council. for the Security of the Peace, by appointing Justices of the Peace, to be constituted under the Great Seal of Great Britain, in the feveral Counties of Scotland, cannot be expedied to take Effect; and therefore we conceive, that if that Claufe had been framed to as not to take place till the first of Odober next, as was proposed, the Privy-Council of Scotland had been abolished, as certainly as by the present Bill, and with more Security to the Peace and Tranquility of that Part of the United Kingdom.

2dly, Because the Clause in the Bill which appoints the Commissions and Powers to the Justices of Peace, authoriges those Justices to proceed against Offenders during the first fifteen Days after the Crime committed; and that in the Liberties of heritable Offices and Officers for Life, which, at the Time of the Union of the two Kingdoms, the Justices of the Peace (and all ordinary Officers and Ministers of Julice) were by Law excluded from doing; and therefore we apprehend, that the last-mentioned Clause in the Bill might be constructed to be an Encroachment upon the 20th Articles of the Union, and by that means be the Occasion of raising great Jealousies and Discontents throughout that Part of the

United Kingdom.

Cowper, C. Jonat. Winton', Herbert, Crawfurd, Riven Isla, Pembroke, Wemys, Roseberie, Marlborough, Man Berkeley, Lothian, Loudoun, Glaffgow, Radnor, Cardigan J. Bridgewater, Seafield, Cholmondely, * Greenwith Stair, Godolphin, Somerfet, Leven.

A Committee of Lords examine Greg.

The House of Peers appointed a Committee of Lords, among whom the Earl of Sunderland was chief Manager, to examine Greg; also Alexander Valier, and John Baza: And after hearing of Witnesses, and Perusal of several Papers, the faid Committee made a Report to the House, who there upon presented an Address to the Queen, commaining their Resolutions, as follow:

John Campbell Duke of Argyle, created Earl of Greenwich Novem. ber the 26th, 1,05.

· Firft,

First, HAT the Crime of which William Greg stood at- Amos Anna ' tainted, was of so heinous a Nature, and with t fuch extraordinary Circumstances, that it might prove of very pernicious Consequence, if he should not be made an Resolution of Example. Secondly, And that it plainly appear'd to them, the House as well by what Alexander Valiere and John Baza had in fented to the formed against each other, as by the many Examinations Queen. taken concerning them, that they were both in the French Interest, and unfit to be trusted or employ'd by any Persons s in her Majesty's Service; and that the open and public Manner of the Correspondence managed by them with the Governor and Commissaries of Calais and Belogne, could tend only to carrying on an Intelligence to the Advantage of her Majesty's Enemies; and that it was highly probable thereby, the Stations of our Cruizers, the Strength of our Convoys, and the Times of Sailing of our Merchant-Ships had been betray'd to the French.

The Queen faid in Answer:

Au

en.

ELAC

the

1, 60

ro.

icil.

the

ain,

d to

aufe

80-

had vith

t of

the

ori-

first

Li-

, at

of ce)

re.

be

s of

ing

the

731

ar

1112 ch,

he

re.

elt

I Am forry that any who have been employ'd by those in Her Majesty's my Service, should have proved falle to their Trust, Answer. " and injurious to the Public. I doubt not the Example laid " before me by your Lordships will be a sufficient Warning " to keep all Matters of Importance as fecret as may be, and " to employ fuch only, as there shall be good Grounds to " believe will be faithful."

The House of Peers having received several Complaints concerning the Mismanagement of the Affairs of the Navy, fpent much Time in making a narrow Inspection into them, and on the first of this Month presented an Address to the Queen concerning the State of the Navy and Trade of the Nation, which, by reason of the many very useful Particulars contained therein, ought by no means to be omitted here

Die Mercurii, 25 Februarii, 1707-8.

W E, your Majesty's most dutiful and obedient Subjects, Address of the the Lords spiritual and temporal, in Parliament as Lords about the Mismanagement fembled, do humbly acquaint your Majesty, that, early in of the Navy. this Session of Parliament, a Petition of several Merchants, on behalf of themselves and others, Traders of the City of London, was presented to the House, whereby they complained of great Losses by the ill-timing of Convoys, and for want of Cruizers; fo that they durst no longer engage the Remainder of their Estates to carry on their feveral Trades, unless immediate Care was taken to remedy these two main Causes of their Missortunes. 6 This

1707-8.

no 6 Anne, This Petition containing Complaints of great Confequence to your Majesty's Subjects; and we being sensible.

that nothing but a ftrict and impartial Enquiry into Matters of Fact, could put them in a due Light, and enable

us to distinguish between ill-grounded Clamours, and a ' just Cause of Complaint, in order to take the usual Me.

thod of being rightly and fully informed, did refer the Petition to a Committee, and did also refer to the same

Committee several Papers, which the House had found necessary to call for from the proper Offices, for their better Information in divers things relating to the Navy.

The Committee having prepared a Report, and present. ed it to the House, upon a mature Consideration, it was ap. proved and agreed to; and we think it our Duty humbly

to lay the same before your Majesty.

The Lords Committees have heard many of the Petitioners upon their Oaths, and have caused them to put their Depositions into Writing, and sign the same.'

The Lords Committees observing, that the Complaints of the Petitioners naturally fell under several Heads; for the greater Ease of the House, have endeavoured in their Report to reduce the Evidence to the following Method, always referring, as they proceed, to the Depositions them-

One thing complained of, was the Insufficiency of Convoys appointed for the Merchants, whereby their Ships had from time to time become a Prey to the superior Force of

the Enemy.

A fecond Point was, The Merchants suffered great Difcouragement by their being forced to wait long for Convoys, even after the Time promised and prefixed for their failing, whereby the Charge of Seamens Wages and Victuals, Demurrage of Shipping, Damage of Goods, and Loss of Markets, made trading insupportable.

A third Ground of Complaint, was, The untimely and unseasonable failing of Convoys, whereby Trade (to the

West-Indies, especially) was in a manner ruined.

A fourth was, The great want of Cruisers in the Channel

and Soundings.

A fifth Complaint was, concerning the arbitrary Proceedings of the Captains of the Queen's Ships of War, in impressing Seamen out of the Merchant-Ships in the West-Indies; as also upon their Return into the Ports of Great Britain, to the endangering of many, and loss of several Ships.

In order to make out the first Head of their Complaint, relating to the Insufficiency of Convoys, they gave the following Instances: First,

First, In June, 1706, a Fleet of Merchant-Ships, under Anno 6 Anne, Convoy of the Gosport Man of War, bound for the West-Indies, were attacked in the Soundings, and the Gosport and eight or nine of the Merchant-Ships were taken.

Secondly, The Liston Fleet, under Convoy of the Swiftsure and Warspight, were attacked in March, 1706-7, and about

fourteen Merchant-Ships taken in the Soundings.

The Newfoundland Fleet, under Convoy of the Falkland and Medway's Prize, were attacked in April, and some of them taken.

Fourthly, The Coasting-Convoy was attacked in April off

the Land's End.

nle

fat-

able

da

Me-

the

me

und

bet-

ent

ap.

bly

eti-

the

le.

m.

ad of

75,

e.

11-

he

rel

d-

n-

A-

al

Fiftbly, The Convoy from the Downs, confisting of the Hampton Court, the Royal-Oak, and the Grafton, failed the first of May last, and the next Day were attacked in the Channel, and the Hampton-Court and the Grafton, and about twenty Merchant-Ships were taken by the Dunkirk Squadron.

A Sixth Instance was, That of the Russia Ships outward bound this Year, which was attacked by the Dunkirk Squa-

dron, and fixteen of them taken.

And farther, in respect to the Russia Fleet, Mr. Dawson informed their Lordships, that on the 29th of April, the Governor and a Committee of the Moscovia Company, attended the Prince's Council, to know what Convoy was appointed to conduct their Ships to Archangel: They were told, their Convoy should be one fourth, and two fifth-rate Ships. Upon their representing their Fears of Danger from the Dunkirk Squadron, it was told them from the Board, they need not be under any Apprehension on that Score, for the Dunkirk Squadron was gone Westward; which proved not true, for on the Thursday following, the Hampton-Court, Graston, and Royal Oak, sailed out of the Downs with the Ships under their Convoy, and the next Day, being the 2d of May, fell in with the Dunkirk Squadron.

To shew the Losses and Disappointments that have lately happened to the Fleets of the Muscovia Company, Mr. Dawfor acquainted their Lordships with the Substance of a Petition lately presented by the Moscovia Company to the Prince's Council; and upon his Oath informed their Lordships of many Facts, in order to make good what was contained in that Petition: But those Facts being not particularly set down in his Deposition delivered to their Lordships, and signed by him, no Notice is taken of them in this Report.

The Merchants also defired, that Notice might be taken

of the Gazette of the 8th of May laft.

Seventhly. The Merchants instanced in the Convoy which went with the King of Portugal's Horses, and many other

1707-8,

Anno 6 Anne, Merchants Ships, which were attacked the 10th of Dable last, by the Dunkirk and Brest Squadrons joined together who burnt one of our Men of War, and took three other, with about 30 of our Merchant Ships.

To shew this, the Merchants produced the Gazette of the

3d of November, 1707.

These several Convoys having been thus attacked in the Soundings and Channel in less than a Year and a half, the Merchants infifted, was a convincing Proof of their Infut ficiency.

The second Head of Complaint was, of the great Dif. couragement and Prejudice to Trade, by the Merchants be ing under a necessity of waiting so long for Convoys, where by their Charges were exceedingly increased, great Damage happened to their Cargoes, and their Markets were loft.

They said, if any of their Ships happened to escape the Enemy in their Return Home, their Losses were much beightened by their long lying for a Convoy in the River: which, tho' very much and long complained of, yet feldon

met with any Redress.

One Instance of the Damages arising by the Delay of Convoys, was, That several of our Merchants had Orden in July, 1704, for buying great Quantities of Corn for the King of Portugal's Use, and had Assignments on the Treasury for 100000 Pieces of Eight: Accordingly a great Quantity of Corn was bought in July and August, and frequent Applications made to the Prince's Council for Convoy, and they promised from time to time to take Care of it; but the Convoy did not fail from Portsmouth till the 6th of Febru ary following, near feven Months after they had Orden: And by this Delay their Corn was in a very bad Condition.

The Merchants had an Order from the King of Portugal to the same Purpose the Year before, but then they had work Success in getting their Corn convoyed to Portugal: And by these Disappointments, the Portugal Court was discouraged in fending Orders for more Corn from hence, not only by me fon of the great Disappointment, as to Time, but by the spoiling of the Corn, whereby our Corn was brought under great Difrepute; and they now supply themselves from Holland, and thereby the Dutch not only reap the Advantage thereof, but, as the Corn comes chiefly to them from the Baltick Seas, it is a great Advantage to their Trade and No vigation.

The 25th of March, 1707, a Fleet sailed for Portugal but there was then a Prospect given, that there should som go another Convoy. This encouraged the shipping of gral Quantities of Corn, and Woollen Manufactures; and im Heat of the Weather coming on, pressing Applications were Anno 6 Anne, made for that Convoy, but without Success.

The 10th of August, the grand Fleet sailed from Ports-

mouth, but took no Merchant Ships under their Convoy.

The Merchants having continued petitioning, till about the latter end of September, then told the Prince's Council in plain Terms, that if they did not grant a Convoy immediately, the Goods aboard their Ships would inevitably perish in Port.

At that time they promised the Norfolk and Warspight; the Merchants prayed a small Ship might be added to see their Ships safe along the Coasts of Portugal, but that was denied; and the Prince's Council told them, the Warspight

had Orders to that Purpose.

ben,

the

the

the

oluf.

Dif.

iere.

ages

ft.

the

nuch

ver ;

don

y of

rden

the

fury

ntity

Ap-

and but

ebra-

lers:

tios.

tugal

world

d by

ed in

Tes-

the

inder

from

ntage

the 1

Na

ngal,

foot

great

the

Heat

The Merchants acquainted them, that so large a Ship at that Season durst not venture so near the Shore, as was necessary to protect the Trade from Privateers lying near the Shore; and did also represent the Danger to which the main Fleet of Merchant Ships, bound for Liston, would be exposed, if they proceeded with a single Man of War; but this was not regarded: So the Merchants were forced to submit, having some Chance for saving their Cargoes, if they proceeded; whereas they had none, if they continued longer in Port; for not only their Corn would be spoiled, but all their Woollen Manusactures were in Danger of decaying by the heating of their Corn, as had been often experienced.

Soon after, a Report came, that a French Squadron was cruifing in the Channel, and an Embargo thereupon was laid on that Fleet. The Portugal Merchants drew up a Remonstrance, representing the great Hardships they had suffered: But it happened at the same time, when the Remonstrance was presented to the Prince's Council, News came, that some Dutch homeward-bound West-India Ships, meeting with contrary Winds in the Channel, had been taken for French, and were put into Portsmouth. Upon this, the Merchants pressed they might proceed without Delay, the Cause of the Embargo being removed: But the Board seemed displeased with their Remonstrance, and told them, the Embargo had been laid by the Prince, and could not be taken off without his Direction; and that his Highness being then at Newmarket, it must take up time before such an Order could be fent; but, if they would flay a Week longer, the Exeter should be added to the Convoy, and the Nasjau, if the could get up in time; to which several of the Merchants did agree, and were obliged by the Board to fign a Paper to that Purpose.

The Fleet failed the 18th of October, with the Norfolk, 1707 8

Anno 6 Annæ, Warspight, and Exeter, but the Nassau did not join ; which the Merchants faid, was only for want of necessary Orders; for the Fleet was not under fail till three of the Clock in the Afternoon, and the Naffau came to Spithead before

Night.

By reason of the Insufficiency of this Convoy, seven Ships were taken out of the Fleet near Portland; and after wards the Fleet meeting with bad Weather in the Bay f Bifcay, the Warfpight and Exeter came back disabled : When as the Merchant Ships (except some few, which had falle foul upon each other) proceeded to Lifbon with the Norfell only : But feveral more Ships were loft out of the Fleet by the Weakness of the Convoy, and two Men of War, on of three, being disabled, and forced to return, they though it reasonable to conclude it could not be without some conf. derable Defects in the Ships, when they went out.

Another Instance infisted upon, was, that a great Num. ber of Merchant Ships having gotten into Portsmouth from Jamaica, Virginia, New England, Antigua, Liston, and other Parts, in December, 1706, as also many Coasters; al these were detained there for want of Convoy to the Down, from that Time to the 24th of April following, being be tween four and five Months, altho' frequent Application were made to the Prince's Council, for Convoy to the Downs, from the Masters there, and the Owners at London, and many Promises given; and yet during that Time, many of her Majesty's Ships lay there in Harbour, and seven Men of War passed by from Plymonth, without calling for the Merchant Ships which lay there.

Sir Thomas Hardy, with the East India Ships, and other

Ships from Ireland, passed by without calling in.

When these Merchant Ships came into Portsmouth, the Southampton lay ready fitted at Spithead, and continued then two Months, at least, and the Anglesea lay there a considerble time ready fitted.

During this Time, feveral Frigates failed from Portsmouth, and cruifed up as far as Dungenefs, within feven Leagues of the Downs, but, for want of Orders, took no Ships will

Whilst these Ships lay there for want of Convoy, then were at Spithead the following Men of War, many of which

lay there a confiderable time: viz.

The Anglesea, Southampton, Swiftsure, Warspight, Seven, Portland, Ruby, Feversham, August, Nassau and the Alle marle, Reserve, Dover, Ramellies, Sun-Prize, and two Fifth-

Some of these (it was hoped, during the westerly Wind,

which were very frequent) might have been ordered to have Anno 6 Annæ, feen these Ships, being about fifty or fixty Sail, to the Downs, which was within about fixteen Hours sail.

All this while the Merchants lay at great Charges, befides the Damage to their Cargoes, and the Loss of many

of their Voyages for the following Season.

which

ders:

ck h

before

everal

after.

ay of

fallen Vorfolk

et by

r, out

ought

conf.

Vum.

from

and

; all

OFWIN.

g be-

tions

the

ndon,

many

veral

g for

other

, the

there dera-

couth,

es of

with

there

hick

vera,

Albe-

ifth-

inds,

hich

About the 10th of February, the Ruby and Fewersham, appointed as a Convoy for them, gave sailing Orders, but were again countermanded, and the Ruby went into the Dock to clean.

Afterwards, upon further Importunity, the August was ordered to join the Ruby and Feversham; but instead of going for the Downs, they went first to fetch the Coasters from Sopham, and then came to call for the Ships at Portsmouth.

About the Beginning of October, 1706, Mr. Coward and Mr. Jones let several Ships to freight to the Commissioners of the Victualling Office, for the Queen's Service directly to Jamaica: Being told, the Convoy waited for them, they were bound by Charter-Party to be at the Nore the 15th of November following, on Penalty of 5s. per Ton freight.

Their Ships were ready, and the Wind was fair, but they were detained for the Convoy, and carried from Place to Place, from the Downs to Portsmouth, thence to Plymouth, thence to Ireland, thence to Barbadoes and Antigua, flaying at each Place, so that they arrived not at Jamaica till the 3d of June last, to the Ruin of their Voyage, and their Ships, of which they just then had an Account, that they are lately come back to Ireland.

Mr. Coward, the 11th of February last, let to freight to the Commissioners of Victualling in the Queen's Service for Lisson, the Walthamstow Galley, (and as he was bound by Charter Party, under the same Penalty) was ready by the tit of March last, but was detained till the End of August, before he sailed from England.

Captain Kerr appointed all the Ships at Jamaica to be ready to fail the 1st of August last, but then he made them wait till the 26th of August, and after, with his Convoy,

left them all when at Sea.

Mr. Palmer, in 1705, had a Part in a Frigate called the Ruby, laden with Corn and Bale-goods for Lifbon; and, in Company with many others, was convoyed from the Downs to Portsmouth, by the Litchfield Prize; but for want of Orders, she could not see them at Plymouth, about twelve Hours sail farther, where they might have joined Sir Cloudessey Shovel's Fleet, bound for Portugal. Upon this, the Merchants sent many Petitions to the Prince's Council, which together with the Answers (being direct Resulas) were inferted

1707-8.

Anno 6 Annæ, ferted in his Deposition. Mr. Palmer, in Person, after. wards, in the Name of the several Merchants, attended the Prince's Council, and represented, that, without speedy Re. lief, all the Corn aboard the Ships would be spoiled; be the Answer was, That no Convoy could be granted; and a last, by a violent Storm the 10th of August, about twenty Sail of these were cast away, and amongst them the Rub, worth, at leaft, 7000/.

For a farther Evidence, the Merchants produced to their Lordships the Gazette of the 1st of May, 1707, and shewed the Paragraph from Oftend, in which are these Words:

A Fleet of Merchant-Ships, which lay five Months in the Dozons, confisting of fifty five Sail, arrived at Offend this Evening, to the great Advantage and Satisfaction of this Place.

This the Merchants observed was a great Delay for he short a Passage, and must extremely prejudice the Flander Trade, which the Parliament thought fit to encourage, by passing an Act the last Session for repealing the Prohibition of importing Lace.

A third Ground of the Merchant's Complaint was, That by the untimely and unfeafonable Proceeding of Convoys, especially to the West Indies, they were very great Sufferen

upon many Accounts.

By arriving there at an improper Time, in the hot, fultry, and rainy Seasons, a great Mortality is occasioned among the Seamen, which proves a Loss of their Voyages, for want of Hands to bring Home their Ships, or put them to val

Charges to purchase Men there.

The same Cause obliges the Traders to the West him to return in the Winter Time, when they commonly met with flormy and foggy Weather, which is often the Occasion of their Separation from their Convoy; who being well manned, and crowding all the Sail they can, out-fail the Merchant Ships, being (for the Reasons aforefaid) generally but weakly manned, and fo are left in Diffress to the Mercy of the Enemy, or the Seas, for want of a little Conduct in the Convoys in shortening Sails, and taking care of them.

An Instance of this was alledged in the Fleet now missing from Jamaica, which came under Convoy of Captain Ker, with three Men of War, the Breda, the Sunderland, and the Experiment, and a Fire-Ship; one of which, the Sunderland, came alone to Portsmouth, the Breda, and the Fire Ship, to Plymouth, and the Experiment afterwards to Spithead, but not one Merchant-Man, except a small Ship to Briftol.

The Merchants observed, that if the Convoy had fired

Guns at tacking in the Night, or used any other reasonable Anna 6 Anna, Care, they could hardly have loft a whole Fleet of above

twenty Sail.

fren

I the

Re.

bar

nd at

enty

Ruby,

their

ewed

ns in

-this

or fo

nders

, by

ition

Phat

roys,

erers

ltry,

the

nt of

vaft

ndies

meet

afion

well

the

rally

ercy

et in

ffing

Cerr,

the

land,

, to

not

fired

uns,

n:

They observed also, That the Convoy were all come to Portsmouth or Plymouth, and yet Mr. Kerr himself had wrote from Plymouth, that, in case of Separation, the Rendezvous was to have been in Ireland.

The Jamaica Merchants complain, That they had long

lain under great Discouragements.

That about October, 1705, they applied themselves to the Prince's Council, complaining of the many Losses in their Fleet the preceding Year, which had to a great Degree difabled them from fending another that Year: But that however, depending upon the then repeated Assurances, that they should have a sufficient Convoy to depart early, and more particularly, upon an Order fent from that Board to the Jamaica Coffee House, That the Merchants should get their Ships ready to depart by the 20th of January, at farthest; they had prevailed with fundry Persons to let their Ships go to Jamaica. Accordingly, Ships were fitted out with great Expedition, and Men hired at extravagant Wages. But, after all those fair Promises, their Ships, thus fitted, lay almost two Months beyond the Time prefixed, for want of a Convoy.

The 21st of March, the Merchants (as Men in Despair) reciting the former Affurances given them, petitioned his Royal Highness, that their Ships might depart with the first Squadron bound out of their Channel; adding, That if that Fleet should miscarry by their late going out, and return, they desponded of getting Ships to carry on the Trade the

succeeding Year.

Howbeit, that Fleet was detained till the beginning of May, and the ill Success too well answered the Merchants Apprehensions; for the greatest Part of the Fleer, being fe-

parated from their Convoy in their return, were loft.

That by these and many other Hardships, the Jamaica Trade is brought to fo low a State, that whereas at the Beginning of the War, their Fleets Home, have confifted of thirty or forty Sail, when they were lately informed by the Prince's Council, that a sufficient Convoy should be ready to depart with their Fleet in a proper Time, they were obliged to acquaint the Board, that they had now but two Ships in loading.

They also said, That, without some speedy Remedy, they should be quite disabled to make any farther Efforts, to carry on the hopeful Trade begun to the Spanish West Indies; upon Account whereof more Woollen and other English Manufactures were shipped to Jamaica for that Trade, than

had been in feveral Years before.

Anno 6 Annæ, 1707- 8, In respect to the Virginia Trade; In October 1705, some Ships sailed for Virginia, under Convoy of the Wookwich and Advice, who were ordered to stay there till reinforced from England; and the Merchants were then promised, that the Greenwich and the Hazardous should sail with the sinf sair Wind in January following; but those Ships did not sail till May, 1706. This Delay was the Cause they did not reach Virginia till August; at which time the greatest Pant of their Fleet had been sixteen Months in their Voyage. By this Length of the Voyage, their whole Freight was expended in Wages, Victuals, and other incident Charges.

Secondly, The Ships lying there almost two whole Summers, several of their Bottoms were perished by the Worms, which in those Parts always eat in the Summer Months.

Thirdly, To compleat their Misfortune, they were forced to make a Winter Passage home, and by the Badness of the Weather, &c. fixteen or more Ships were sunk or founderd in the Sea, and about eight thousand Hogsheads of Tobacco lost, other Ships with above two thousand Hogsheads of Tobacco more, were taken and carried into France; and divers Ships were forced back to America, and fince returning without Convoy, are lost, and not heard of.

The Particulars of these Losses are annex'd to the Depositions given in by the Merchants, and thereby it is alledged. That the public Revenue has suffered above one hundred and fifty thousand Pounds, besides the very great Loss to the par-

ticular Persons concerned.

It having been the last Winter represented by the Commissioners for Trade, That it was necessary a Convoy should go to Virginia in the Spring, to fetch the Ships which should be there, and that they should stay there twenty Days after their Arrival, to collect them the better together; a great Body of Ships which had taken Stores, &c. for Lifton, upon her Majesty's Account, were thereby encouraged to go from thence to Virginia, and many other Ships went from London directly. But most of these remained in Virginia in September last, expecting this Convoy, and will now be obliged to come home without Convoy in the Winter Seaion: For though the last Spring her Majesty in Council or dered a Convoy to be ready in August, to go for Virginia, yet they still remain at Portsmouth. By this the Virginia Ships will be forced to lie all Summer in Virginia, and come home again in the Winter, and thereby not only the Merchants Losses and Damages will be very great, and the Revenue suffer much, but there is aboard this Fleet, far greater Quantities of the Woollen Manufacture, for the Winter Cloathing of that Country, than has been usually fent to those Parts, Parts, which now cannot arrive till the Winter be over, and Anno 6 Anno, the Market past; and Necessity will justify those People for indertaking our Manufactures, which many of them have already fallen into: The ill Consequences of which the Merchants submitted to the Consideration of their Lordships.

They also said, That, for some Years past, there had been no Frigate appointed to take care of the Virginia Coast, for want of which, many Ships have been taken, going in, and

coming out, by the French Privateers.

ail

tot

irt

n-

18,

he

rd

CO

ers

i.

m-

ch

yş

; 1

in

be

ea-

01-

tia,

nia

me

er-

Re-

ter

th-

ofe

rts,

These Merchants pray'd their Lordships to use some Means, that the Coasts of Virginia may be guarded, proper Convoys appointed, and the Merchants have due Notice thereof, and that then they might neither be delayed nor diverted, and that the Admiral's Protection might stand good, till the Ships were arrived in the proper Ports of Discharge.

A fourth Head of the Merchants Complaint was, the great

Want of Cruifers in the Channel and Soundings.

Mr. John Wood informed their Lordships, That in the Space of fixteen Months last past, he had been concerned as Owner and Freighter of several Ships that loaded Corn in the Port of Shoreham in Suffex for Holland and Lisbon.

The Union Frigate was ready to fail for Portsmouth in Ollober, 1706, but the Coast was so infested by Privateers, that she could not, without apparent Danger, proceed in Portsmouth, tho' only eight or ten Leagues distant: Thereupon he and other Owners, in like Circumstances, made frequent Application to the Prince's Council, for a Man of War to convoy those Ships, but they from time to time delayed to order any Ship to call at Shoreham. He faid, that upon one Application the Prince's Council told them, that they had only some third-rate Men of War, too large to lie on that Coast, except a Frigate of about twenty fix Guns, which Admiral Mitchell faid they might have; but Admiral Churchill faid, if the was fent, the would certainly be taken. At last Mr. Wood despairing of Assistance, after waiting fix Months (the Ship lying at great Charges, and having on board a perishing Commodity) notwithstanding the apparent Hazard, directed the Ship should sail for Portsmouth, but they were foon chased by three Privateers, and thereupon got under the Guns of Bright Helmston, but found little Protection there, the Guns being not in Order, and there being no Powder to charge them: But Night coming on, and the Weather bad, and the Privateers standing off to Sea, the Union Frigate, by the Favour of the Night, weighed and stood for the Downs, and by the Dawning of the Day was got up with Beachy head, but there fell in with several Privateers, who chased her under the Guns of Hastings, where then lay a Tender

Anno 6 Anne, a Tender to a Man of War, with about an hundred impressed Men, which durft not flir out, either for the Downs or Pout mouth, for fear of the French Privateers, which were very numerous on the Coaft, and almost constantly cruising between Beachey-head and Shoreham, without Interruption from our Men of War.

Some Days after, a Convoy coming from the westward with fome Ships, the Union Frigate joined them, and got into

The same Mr. Wood, in the Months of April, May and 7mi last, was concerned in several other Ships freighted with Corn, in the same Port of Shoreham, for Lifbon and Holland; but then also he did not dare to suffer his Ships to flir out. the Coast continuing still infested with French Privateen. There was also, at that time, in the same Harbour, a Veffel laden with Timber for the use of the Navy, which was fail to have lain there twelve or thirteen Months for want of Convoy to Portsmouth. At last, upon frequent Applications to the Prince's Council, a Convoy was fent, and the Ships went out; but foon after they had joined, the Convoy run away, and left the Ships, upon a Report that the Dunkirk Squadron was upon the Coast, and the Ships were pursued by Privateers, and with great Difficulty got to Portsmouth.

The Privateers continuing to infest the Coast as muchas ever, Mr. Wood refused to be farther concerned from the Port of Shoreham, and has not heard of any Corn exposted fince that time from that Harbour, which is a great Impoverishment to the Country thereabouts, the Price of Com there being 20 or 25 per Cent. cheaper than at other Place

which lye nearer Portsmouth.

Mr. Thomas Palmer deposed, That within three Years he has loft to the Enemy in the Channel and Soundings, a large Part in three running Galleys, outward-bound to the Streight, and in fix Weeks time, has loft as much coming home, as would have paid her Majesty some thousand Pounds Custom.

The Pilgrim Galley, laden with Fish, was taken in the

Soundings, by three large Privateers.

The Providence Galley, laden with our Manufactory, and fome Fish, Lead and Tin, bound to the Steeights, worth nest 10,000 l. was taken off of Dungeness some sew Hours Sil from the Downs, by three or four large Dunkirkers.

The Mead Galley and Fly Galley, going out in March lat in Company with the London Galley, they were chased of of Beachey-head by three Privateers, who took the two first, the London narrowly escaping, as he was informed from Plymouth by the Master, who informed him in the same Letter, thata Neutral Ship put in there, and had been boarded aboves dozen Times in one Day by French Privateers.

1707-8.

The 13th of the same March, several Merchants made a Anno 6 Anne. Remonstrance of their Losses to the Prince's Council, who told them, They were not to expect Convoy for their Running Galleys: They replied, they did not, but defired Cruiters might be appointed for the Channel and Soundings, the Running-Galley's being now the Veffels which chiefly carried on Trade; and that if some better Care were not taken, even the Men of War would be in Danger in the Channel. The Merchants were directed to leave their Remonstrance, that it might be looked into at a full Board, but it had no Effect ! The same Vessel, the London, going out in Company of the Handifide and Fleet Galley, the London was taken, and the Handiside blown up in a Fight off of the Lizard, and the Fleet Galley only escaped.

The Antelope Galley, laden with Lead, Tar, and Stock-fish for the Streights, was chased off of Beachey-bead, by the Lyme and Gosport Men of War, under Dutch Colours; the Master taking them to be Enemies, made the best of his Way for Hastings; then the Men of War hoisted English Colours, but the Master not trusting to Colours, unfortunately ran the Galley ashore: This Accident cost above 100 1. to get her into Rye, and above twice as much fince, upon the Account of Loss of Time, the being detained there by the Swarms of Privateers, as appears by several of the Master's Letters of the

Dates following.

fled

very

be-

rom

vard

into

f uni

with

ind;

out,

ers.

effel faid

t of

IORS hips

run kirk

fued

h as

the

ted

po-

orn ices

he

25

om.

and

eat

Sail

laft

of

the

uth

at a

21

he.

.

The 15th of October, there were two Privateers and a Snow off that Harbour.

The 17th, two Privateers off that Harbour.

The 22d, two Ships of 30 Guns within three Miles of the Harbour.

The 24th, four French Men of War at Anchor within fight of the Town.

The 28th, a Fleet passed by, with which the Master would have joined, but could not, because there lay three French Privateers between them and him, and feven more in fight.

The 30th, a Dutch Dogger was chased in there by seven Privateers.

The 5th of November, a Sloop came into that Harbour, which had been taken and ranfomed coming from Lifton, and afterwards boarded and plundered by several French Privateers in the Channel. The Master of the Sloop gave an Account that three Privateers were lying off of the Isle of Wight, three off of Beachey, and five or fix others off of Rye.

The 8th of November, fix Sail of French Ships, and a Sloop lay in Sight of Rye, and the Sloop was come within a Mile

of the Harbour, right in the Channel.

The 15th, a Gentleman that rode along the Coast faw 1707-8. Fourbin's Dd

1707-8.

Anno, 6. Annæ Fourbin's Squadron, and feveral Privateers cruiting off of Remonderance of cheir Beachy.

The 17th, another Mafter faw eight Sail of French Shim off the Downs, who were fending their Scouts very frequently to observe what was a doing.

The Merchants defired to submit it to the Confideration of the House, if there be a Probability of carrying on Trade

under fuch difficult Circumstances.

Captain Winter came in the King William Galley the 14th of March last from Gibraltar, in Company of the Pearl, the Hanover, and the Lodington Galleys, and at the Streight Mouth they joined the Sea Horse and the Sunderland

The 31st of March, they were pursued by four Sail, but

escaped them by tacking in the Night.

Upon the 9th of April, they had Sight of Beacher Hind and foon after five Sail of Privateers, lying under the Land bore down upon them, who all made the best of their way; but the Lodington and the Sunderland were taken, and the Hanover and King William were purfued within two League of Dover-Caftle, and the Privateers would have followed them into the Road had they not feen a great Ship a head of them, standing in for that Place. And though the Enemis cruise in such great Numbers, that it is very hard for any Enlift Ships bound homeward to escape, yet Captain Winter land he did not fee one English Cruifer throughout his whole Voyage.

Mr. William Wood, in order to fatisfy their Lordships that few or no Cruifers had been employed, gave an Account of many Ships taken and attacked at fundry Times, some within

a few Hours fail of the River Thames, viz.

Off Beachey or Dungeness in December, 1706,

Pearl Galley, Dove Galley, taken in com-Phænix. Mary Galley, pany of the Betty Galley, Greybound,

Off Plymouth in December in January,

Volant, Hurdis. taken together. George, Berkeley Galley,

Off Dungeness in January,

Trumball Galley, taken with 15000 Pieces of Eight on board.

Off Dungeness in March,

Mead Galley, } taken. { The London at that Time

Anno 6 Annæ, 1707-8.

Off Beachey-Head in March,

Anne Galley, taken. Sheptune, Phanix, Sescaped. Mary, Hooker,

not standing to In April, 1707,

Sunderland, taken in com. Sea-Horse, Pearl Galley, Lodington, Pany of the Hanower, King William,

In the Year 1704, few or no Ships arrived fafe for want of proper Cruifers. The Jamaica Traders lost fourteen Ships

in the Soundings and Channel.

th

ade

4th the

bu

but

nd,

the

ved ved

of

ies

ole

hat

of

hin

Of

Sir George Bing and Admiral Jennings in January, 1704-5, were at Sea cruifing till October following, during which Time the English Ships were protected, and twenty Sail of the Enemies Privateers and Merchant Ships were taken, but from that Time till October or November 1706, very few Ships were cruifing.

Then Sir Thomas Hardy sailed with five Men of War, which all returned in five or fix Weeks, and soon after sailed for Ireland, and returned to the Downs in February or March, since which Time the Merchants have had no Knowledge

of any Ships cruifing, till September, 1707.

Mr. Wood told their Lordships, that the Account he gave, was the best he was able to procure of the Number of Cruisers employed, and the Time they have been in Service since

Odober, 1705.

Thomas Pipon, Commander of the Elizabeth Galley, faid, that being bound for London from Faro, he had fight of Beachey the 22d of November last, there he spied three Sail to the Eastward of him, and stood from them, but, soon after, seeing three more near his Wake, and having tried their Sailing, and finding he could by no Means escape, he being seencompassed, he ran his Ship on Shore at East Bourn, on the Coast of Sussex, in hopes of some Affistance; but two of the Privateers came and anchored within Pistol-shot of the Ship, and, by siring, forced the Ships Company to get on Shore, after the best Desence they could make, having first endeavoured to disable the Ship, and put Fire to some of the Sails; but the Enemy was so near, that they soon extinguished

Anno 6 Annæ, tinguished the Fire, and, by the Help of the rising Water, 1797-8, got off the Elizabeth Galley, and carried her away,

Mr. Pipon said, that while he stayed at East-Bourn, which was two Days, he saw six or seven Privateers cruising of and on, several very near the Shore; and was informed by the People of the Place, that, for sour or sive Weeks past, they had seen French Privateers almost every Day, sometimes to the Number of sixteen, but mostly eight or ten of them,

and some of good Force.

He said, by reason of their great Numbers, and cruising in the Narrow of the Channel, it is very difficult for any Ships to avoid falling into their Hands, especially since there are no good Harbours or Forts to succour them, night that Place; and the Enemy's Harbours of Dunkirk and Calair an so near, and so few English Cruisers in the Channel to intercept the said Privateers and their Prizes, which makes the Ships Companies be altogether for running on Shore to save their Liberties.

Captain George Guillaume told their Lordships, that is his last Voyage from St. Ubes to London, in the Ketch Conford, on Sunday the 16th of November last, he was found by contrary Winds, into Falmouth Harbour; the next Day he saw three French Privateers take a Dutch Ship within

three Miles of Pendennis Caftle.

On Thursday he left Falmouth, and on Friday he saw two Vessels, which chased him into Fresh Water Bay in the shoot Wight; but, Night coming on, and the Weather very black, he escaped betwirt the Land and the Ships.

On Saturday the 22d, he made Beachey-Head, and, as how as it was Day, faw a French Privateer under his Lee; and foon after, faw two at his Stern, and three more at his Lee, and two more a breaft of him, which made him refere w run his Vessel on Shore, being very near Land.

Upon this, the Privateers put up English Colours, which made him forbear for some time to run his Ship ashore; but one of them putting all his Sails out, and coming upon him, he grounded his Vessel, and disabled her all he could that they might not carry her off, and then went ashore at Place called Pevensey, and went to the Town, and got some Assistance.

The Privateer came to an Anchor, and fired upon them, and the Shot went above half a Mile into the Country. He faid, if they had had any great Guns, they might have faved their Vessel; for it was above five Hours before the Privateer had her a float.

The two following Days (which was the Time he flayed there) he saw from the Shore six Privateers.

He

ater,

which

times

hem,

ifing

any

here

that

t tre

nter-

the

fave

u in

Conced, Day

this

man

two.

PATY

OON

and

æe,

e M

ich

181

ld,

41

m¢

m,

He

red

Và:

ed

He

He affirmed, that in his whole Paffago he did not fee any Anno & Anno

The Merchants give and occount of the wast Advantage of the Mediterransan Frade, which, for a confiderable Time, had been carried on with great Success; by nimble Galleys, ithout putting the Government to the Charge of Convoys. Mr. qGould informedy share befide the Harry Trade, and Trade from feveral outher Places in the Mediterranean, the Cultoms of Leghoring Winites and Genoa, did amount to about 200000 /. Sterlings per Minimis and an Account was also giren in by him, in particular, of the very great annual Exports to Legborn, alone, confifting of our Manufactures, Goods of our native forowth, and other Merchandizes; which Trade had continued for many Years, while our Channel was better guarded & but of late it is in a manner quite interrupted for want of Cruifers in the Channel and Saindings. and many rich Ships taken there: He mentioned oin particular, the Manaria Galley from Turkey, worth above 800001. taken in the Soundings; the Mediterranean Galley from Zant. taken off Beachey Head; the St. George Galley, taken in the Channel; the Royal Anna Galley, taken in the Channel; where the had made Boards for about fifteen Days together, without feeing any one Cruifor to held her withe Trumball Galley, rich in Money, taken near the Downs He faid, he declined 'naming' mone, athor he could mention feveral: others, the rather, because dome of them are included in the great Lifts of Merchants Loffes, gives to to their Lord. thips, confilling of near 1 160 Ships an But in wider to thew the Difference, when any Care was taken fon Cruilers, he produced a Lift tootheir Lordships of minety one S Galleys bound from Leghorn, which arrived fafe, without Convoys, from September, 1703, to Ottober, 1704 and lift gain imprefied, ball and there were some Cruisers employed.

He said, that Foreigners did reproach one Nation for the great Neglect of the Morchants Ships, and to this purpose he produced two Letters from his Correspondents at Leghern, one dated the 12th of September, in which, after taking Notice of the Loss of the Russa Ships, it follows; Seeing the Enemy sall in with so many of our Convoys, we begin to suspect there may be some Traytors among us. And another Letter, in which (amongst other Things) it is said, They have received a lamentable Account of the Listen-Horse Convoy, by which they observed there had been strange Management in our Maritime Affairs, seeing we can suffer

to much near Home! A a second one yd mid mort ueales

He also produced another Letter from Plymouth, dated the 18th of November last, wherein it was said, * That the French Privateers

1707-8.

no 6 Amm, Privatetre are to bold as to cruife in durivery Mouthe Abien four Days fince, two of them chafed a Durchard Mounts Bay Info our very Harbour within Pents there was a tharp Dispute, and some score of Gum There was at that /Time between the Mand and the the three Welf Convoys; bat neither of them fired, 1 no Orders : however! the Durbman faved whis Shi this is enough, and too much on fo melancholve and

Mr. William Coward faid, the believed that it eleven Hundred and odd Sail of Merchant-Ships lofto into their lordships; was very far thore of the whole ! more to Lephorn, alone, confiling of our Manufacturand

As to the fifth Head of the Merchants Complains cerning their hard Ulage, in having their Men imprelle of their Ships in the West Indies, as also upon their Rime Home, by the Captains of the Queen's Ships, to them great Loss and Danger of their Ships and Merchand weral Inflances were taid before their Lordfhips. M out religi

The Gould Frigate, Jofiab Dowell, Mafter, arrived in The maica in September, 1703, and whilft he went to wait on the Governor, Captain Douglaft, of the Norwich impre ave of his best Seamen : The Master waited on the Ca and shewed him his Protection, but Bong less told the M he had twenty five Seamen, and his Orders from the Admi rhity were ito prefs levery fifth Man a And tho' the Male acquainted hims that fome of his Men were fick and the he mallie wanted Men to fail his Ship Home, wet he could not prevail but for one Seaman; the Captain telling him. if he would, he could take away all his Men, and threatened to flop his Ship, unless he would pay him the Wages of the Seamen he had so impressed: , more based against

MUpon Dowelf's Artival at Plymouth, his Seamen were a gain impressed. here were forme Cruiders employed

of his imprefling of the Seamen, and the extraordinar Charges occasioned thereby, and the Delays of the Ships mounted to near 1000/. Loss to the Owner and Merchantsin condition the azth of Schembar, in which, after spayof Yahl

In a fecond : Voyage to Jamaica in November 1704 by the same Ship, Daniel Bright, Master, several of his Men were impressed, and the Master forced to hire others at an exmvagant Rate, and to take French Prisoners on board to led to fail his Ship Home: And upon his Arrival at Phymith the 5th of April, 1706, all his Men, except his two Mates, the Carpenter, Steward, and two Boys, were impressed, and taken from him by one Saunders, a Midshipman belonging to the Orford, and other Press-Gangs, so that his Ship lay in danger; and he could not have brought her to London, but

ristration!

with ten Men, after he was refused by all the Queen's Men 1707-3.

of War, to whom he applied in every Place where he came,

tho' in vain.

out of the state o

tieu

Point Sed Sery Sery Sery Shap said

ned

lad)

ing

19

in

800

ere

174-

tes,

ing

but

by

In July, 1704, the Roundburk Galley, John Sampson, Master, arrived in Jamaica, where Captain Bois, in the Nonsich Man of War, pressed sive of his Seamen, whereby he was disabled (tho fully loaden) to fail in Company of a Ship of good Force, which then sailed for London; and with great Difficulty, and after long Delay, (with much Damage and Danger to the Ship in the mean time) the Master got sour Seamen more, two of his own five before pressed from him, for which two he was forced to give Captain Bois a Pipe of Wine, charged at 251. But the Ship proving leaky, by long lying, was lost in her Passage Home, in the Gulf of Florida; which Loss in the Ship and Goods was computed to amount to 2500% to the Owner, Mr. Coward, beside the Losses of several other Merchants.

The Somerset Frigate, John Wicksted Master, arrived at Barbadoes in April or May, 1705, where several of his Men were impressed, and returning to Plymouth the 9th of August, 1705. Captain Johnson of the Valeur Man of War, impressed five of his best Seamen; and the next Night in a violent Storm the Ship and Cargo was lost; which Loss in Ship and Goods was computed at 2000 l. to the Owner Mr. Coward,

belides the Losses of other Merchants.

The Walthamflow Galley, Peter Roberts, Mafter, arriving from Barbadoes about the same time, tho' he had several of his Men impressed at Barbadoes, and only nine Men and two Boys left, with himself on board; yet Captain Roach of the Fox, impressed three of his best Men, his Boatswain being one; although the Master told him how weak he was, and that he had but one Anchor on board: Captain Roach faid to him, if he was faucy, he would take him and all his Ships Company aboard, and whip the Master at the Geers. Captain Roach fent him three Italians who could speak no Englib, and they the next Night in a Storm run away with the Ship's Boat, which was staved, and the Ship ran on shore, and so continued 13 Days to her Damage of 4 or 500 l. befides the great Prejudice to the Merchants Goods; upon which Account the Master protested at Plymouth, and the Protestation was delivered to their Lordships, and is laid before the House.

Their Lordships do likewise acquaint the House, that there has been offered to them an Information of Mr. Benjamin Way, in which he represented in behalf of himself and other Owners and Freighters of the London Galley, that the said

Galley

tino 6 Anne, Galley failed from Jameica the latter End of February 14 bound for London, under Convoy of her Majely's Shi Northumberland, Captain Roffey, Commander, with whom the kept Company till the 7th of March. But there having be feven Men impressed from her before the loft Famaica and being forced to take French Priloners on board, a what other Men the could at excellive Wages, to belone the Galley home, and crowding all the Sail they could a avoid being left by the Convoy, the Galley fuffered such Da being weakly manned and in great Diffress, they fired G and made Signals; but being left by their Convoy, the Ship and Cargo perished, to the Loss of many thousand Pounds.

The Merchants made the following Observations to the Lordships, from the Evidence given before them, that the Prince's Council were fully informed of the great Number of the Enemies Privateers; that the Nation had loft the Error tation of Corn for the King of Portugal's Stores by the De of the Convoys; and the Portuguese Army is now furnified by the Dutch with Corn from the Baltic; and the Admi. tage defigned by Act of Parliament to the Land-Owner, by giving a Bounty of five Shiftings the Quarter upon Expon tion, is in a manner disappointed, especially fince, for was of Cruifers, the Running-Galleys are almost wholly difenraged.

That the Prince's Council were so sensible of the swarming of Privateers on the Coafts, that they declined fending on of her Majesty's Ships of 26 Guns, left she should be tal

And that from Tuesday the 29th of April, 1707, when Mr. Dawfon was told by the Prince's Council, that they had No tice the Dunkirk Squadron was gone westward, to Thursday the first of May, when the Hampton-Court, Royal Oak, and Grafton, with the Merchant Ships under their Convoy, failed at of the Downs, there was Time enough to have fent Orden not only by Express, but by ordinary Post, to have stopped the failing of that Convoy.

The Lords Committees do also herewith present to the House the great Lift of Ships loft, which the Merchants di

lay before them, confiding of 1146.

The Lords Committees do also beg leave to inform you Lordships, that the Method used by them in taking the Er aminations of the feveral Merchants was, that, after they me figned their several Depositions, their Lordships require them to depose, that all that was contained in their Paper, respectively, which was said to be of their own Knowledge, was true, and what was mentioned therein, as heard by them, or received in writing from any other Person, they believed After to be true.

After this Report had been made and agreed to, the Anno 6 Annæ, Mouse was moved, that it might be transmitted to the Lord 1767-8. High Admiral, which was readily affented to, and the same was transmitted accordingly, together with all the Depositions relating thereto.

On the 9th of January last, a Paper was laid before the House, which purported to be the Lord High Admiral's

Answer, viz.

ally the new individual to the new individua

00

one

ces.

Mr.

No.

the

raf.

out

did

your Ex-

hil

uirel

pers, edge, hem,

eved

After

Admiralty, Jan. 8, 1707-8.

The Lord High-Admiral's Answer to the Report made to the House of Peers, from the Lords Committees appointed to consider of the Petition of several Merchants and others, Traders of the City of London.

HE Lords spiritual and temporal in Parliament affembled, having by their Order, bearing Date the 17th Day of December last, directed, that a Copy of the Report should be sent to the Lord High-Admiral, which was made to them on the same Day, from the Lords Committees appointed to confider of the Petition of several Merchants, on behalf themselves and others, Traders of the City of Lindon, and of the Depositions to which the said Report doth refer; and the faid Merchants having represented in their Petition, that they have, of late Years, fuftained great Losses by the Insufficiency, by the Delays, and by the unseasonable Sailing of Convoys, and the want of Cruilers; his Royal Highness has thought it necessary, that this general Complaint, as well as the feveral Particulars contained in the afore-mentioned Report, should receive such Answers, as may set the whole Matter in a much truer Light than their Lordships can possibly have by those Papers only, from which the Report had been collected: And therefore it is defired that their Lordships will be referred to the following Particulars."

1. As to the Insufficiency of Convoys.

The Lord High-Admiral does not observe any Instances given, where the Trades that usually proceed with Convoys have ever wanted a reasonable and sufficient Strength for their Security; and even the last Year, the stated Convoys have been much stronger than formerly. The Missortunes of several Convoys being attacked by a superior Force, were no ways to have been prevented but by whole Squadrons: But it is to be observed, that all the Instances mentioned in their Lordships Report, happened in the latter Years of this present War. In the two first Years of her Majesty's Reign, there were not many Ships employed either in or towards 1707 8.

.

Anno 6 Annæ, the Mediterranean, and even those not long absent from on own Coasts; so that there were undoubtedly many more Ships, and those very proper too to be employed in the Defence of the Trade of the Nation, with respect not only to Convoys, but Cruisers: Whereas, in the latter Years of her Majesty's Reign, the public Service hath required the employing great Part of our Fleet Abroad in the Mediterranean; and altho' feveral Ships have returned from thence to Em. land in the latter End of those Years, yet they have not been fit for any Service, until the Time appointed, wherein it was necessary they should be sent Abroad again; for they were fuch as were the least able to continue out, and confequently wanted the greatest Repairs.

2. As to the Merchants waiting long for Convoys after

the Time promised and fixed for their Sailing.

The many constant, as well as accidental Services, which have absolutely required the Use of the Queen's Ships, have often left but very little Choice of Ships for foreign Convoys: But when Applications have been made by the Merchants, the proper Convoys have been ordered to be got in readiness by the Time desired, and not afterwards diverted to other Uses; yet it hath sometimes happened, upon their coming into the Dock, that they have been found, by a long and constant Use, in a much worse Condition than was hoped and expected. The Necessity of fitting Ships at different Ports for the same Convoy, and contrary Winds have often prevented their joining at the Rendevous, and sometimes the want of Men, and Necessity of removing them from Ship to Ship, and the constant Care to pay the Men so removed before they failed, may have or casioned the Delays complained of; yet, upon a strict Enquiry, it will appear, that the Delays are as often to be imputed to the Traders, who are feldom ready to fail altogether at the same time, and that the Queen's Ships have as often staid for the Merchants, as they for their Convoys; as their Lordships may observe from one Instance in the Paper herewith transmitted to them, marked A.

2. As to the want of sufficient Cruisers in the Sounding

and Channel.

There hath every Year been a Provision made for Cruilen in the Soundings, Channel, North Seas, and never less than twelve for the North Seas, and fifteen for the Soundings, which were as many as other necessary and pressing Services would possibly admit of; but they have been very frequently diverted from the Service of cruifing, upon the Applications of the Merchants themselves, either for the convoying up the Channel their homeward-bound Ships, or the fetching them from Ireland, or other Parts, and in convoying the Anno 6 Annæ, Traders to Archangel, the Baltic, Holland, &c. And there hath been a Necessity to comply with this, because those Services could not possibly be otherwise accommodated, unless some of the sew Ships had been taken off, which were on various Stations placed on the Coast, to secure the Trade from one Port to another.

4. As to the Complaint of the arbitrary Proceedings of the Captains of her Majesty's Ships, in impressing Seamen from Merchant Ships in the West-Indies, and at their Return

into the Ports of Great-Britain.

Om

more

De-

ly to

her

em-

rean;

Eng-

not

erein

they

onfe-

after

hich

hips,

reign

by

d to

rards

ned,

been

Con-

y of

and

the

effity

Care

-30

En-

im-

ther

often

their nere-

dings

ifers

than

hich

ould

y di-

g up

hing

hem

If this hath been done, it is contrary to the constant and direct Orders given to the faid Captains, by which they are required not to impress any Men from Merchant Ships in the Plantations, without applying to, and receiving the Confent of the respective Governors, and then never above one out of five, which is more than have ever been exacted from them during this War. And if, for the better manning her Majesty's Fleet, any Men are taken from Merchant Ships when they arrive here, the Captains of her Majesty's Ships are firifily required to supply as many good Men in their room, to bring them unto the Ports whereto they are defigned. and to fend a careful Officer with them; and when fuch Men have performed those Services, they are allowed the usual Conduct-money to enable them to repair to their proper But if this should be true, it must needs feem Ships again. hard to their Lordships, that the Merchants do impute to the Lord High-Admiral, the Miscarriages of his Officers, which have never been complained of to him without a proper Redress.

5. As to the Gosport's being taken in her Passage to the West-Indies in June 1706, with several of her Convoys.

This was an Accident that could neither be foreseen nor prevented; and these Ships being taken almost three hundred Miles in the Sea, on which Occasion, as the Queen's Officers did all that was possible in the Desence of the Merchant Ships, so it is hoped that their Lordships Justice and Wisdom, will not make such Missortunes criminal. And as for the Particulars of that Action, they are contained in the Paper marked B.

6. Another Complaint is, That the Liston Fleet, under Convoy of the Warspight and Swiftsure, was attacked in March, 1706-7, and fourteen Merchant Ships taken in the

Soundings.

This Convoy had the Misfortune to fall in with seventeen Ships of the Enemies, which were going directly from Brest to the West-Indies, and by the greatest Chance imaginable

Ee 2 U

Anno 6 Annæ, 1707-8. met them in their Passage; the Particulars whereof are in the Paper marked C.

7. It is farther alledged, that the Newfoundland Fleet was attacked in April, under Convoy of the Falkland and Medway Prize.

Those two Ships did, in their Passage out of the Channel, meet with eight Sail of the Enemies Privateers from thirty to twenty Guns, with which they engaged, but carried all their Convoys safe to Newfoundland, except two that made sail from them, and by that means fell into the Enemies Hands.

8. It is alledged, that a coasting Convoy was attacked in

April, off the Land's End,

This may be true, though this is the first Advice of it.

9. Another Complaint there is, That the Hampton Court, Royal-Oak, and Grafton, failing from the Downs, the first of May last, were the next Day attacked, and the Hampton-Court and Grafton, and about twenty Merchants Ships taken by the Dunkirk Squadron. Otherwise than that, they were in the Flemish-Road, notwithstanding what is sworn by Mr. Dawson, that he was told at the Admiralty Office, the said Squadron was gone westward; for, upon the strictest Examination of all the Advices, and of the Minutes of the Office of that very Day, there does not appear any Notice of the Enemies Ships being sailed to the westward: Wherefore those three Ships, which were one of 76 Guns, and the other two of 73 Guns each, were judged a sufficient Convoy between the Downs and Spithead, nor were there then any Ships within reach to have strengthened them.

10. It is also alledged, that the Russia Ships outward-bound the last Year, were attacked by the Enemy, and fix-

teen of the Merchant Ships taken.

As to this Matter, their Lordships are desired to be referred to a Paper marked D. by which their Lordships will find a particular Account of that Assair, from the time that the Merchants did first apply for the Convoy; and that Sir William Whetstone, with the Squadron under his Command, did conduct them to the Latitude of 63 Degrees, and that then leaving them to their proper Convoy, none of the Merchant Ships did fall into the Enemies Hands, but those whose Matters did actually leave the said Convoy, and that not till they were in the Latitude of 70 Degrees, about three Weeks after Sir William Whetstone parted with them.

11. Complaint is also made, that the Convoy was attacked the 10th of October last, which was conducting the Ships with Horses for the King of Portugal, and the Trade w

Lifton

This Convoy was her Majesty's Ships the Cumberland, Demonstruct, perconstitute, Royal Oak, Ruby and Chester, which were two of Anno 6 Anno. 80 Guns, one of 76, and two of 50 Guns each, which were thought to be a sufficient Convoy to Liston in the Opinion of the Merchants, till the Missortune happened by the accidental Junction of two French Squadrons: But on this Occasion the Queen's Ships behaved themselves so well, that very sew of the Merchant Ships were taken, and their Lordships will find a particular Account of this Assair in the Paper marked E.

12. The Merchants also complain, that they waited long for Convoys, and of the Prejudice they received, when they returned from Foreign Parts for want of Convoys to the Ri-

ver Thames.

125

ay

el,

ty

all

ds.

rt,

of

Ar.

aid

nj.

fice

the

ore

her

be-

ips

rd-

fix:

fer.

find

the

Vil-

did

hen

ant

136-

hey

fier

ked

hips

e 10

and,

bire,

This Head being general, their Lordships are desired to be referred to what hath been already said on this Subject in the

beginning of this Paper.

13. They farther alledge, that they had Orders in July, 1704, to buy great Quantities of Corn for the King of Portugal's Use, and that in July and August they did the same; but that, notwithstanding their frequent Applications, they could not obtain Convoys till the 6th of February following.

This feems to be somewhat extraordinary; for they say, their Ships were ready to fail in July and August; whereas the latter of those two Months, there were Orders given to her Majesty's Ships the Pembroke, Canterbury, Greenwich and Cloucester, to convoy the Trade to Liston; and on the 6th of September, Sir William Whetstone was ordered, with the Squadron under his Command, to fee them an hundred Leagues South South West from Scilly, which he did; and why the Ships that were ready in July and August (as is alledged) did not proceed with this Convoy, their Masters, or the Owners of them, or both, can give the best Account: Besides, there were several Ships of the States General, which called at Spitbead in their Way to Liston, and (as it had been concerted at the Hague; took our Merchant Ships under their Convoy. And here it may be observed, that although it had been found impossible to furnish Convoys for the Trade to Portugal, at the immediate Times the Merchants have applied for the iame; yet there hath been twenty nine Convoys between England and that Kingdom, from the Month of April, 1703, to October last, and some of those Convoys no less than great Part of the Fleet, and at other Times confiderable Squadrons; and particularly in the Year 1706, there were five Convoys in one Year, which makes it very improbable, that the King of Portugal's Magazines and Armies have been furnished with Corn from the Baltic.

14. They farther complain, that the Grand Fleet failed the

Anno 6 Annæ, the 10th of August from Portsmouth, and did not take any 1707-8. Merchant Ships under their Convoy.

This was the Year 1706, when the Admiral of the Fleet had Instructions to proceed upon Services, not fit to be made public, which did consequently render it impracticable for him to take Merchant Ships in his Company.

15. Another Objection they make, that there was an Em-

bargo laid on their Trade and Convoys.

It is presumed, that by the Word Embargo, they mean, that there was some little Stop put to their Proceedings, until there could be a more certain Account of the Intelligence received, that there was a Squadron of the Enemy's Ships in the Scundings, which proved afterwards (as they observed) to be Dutch homeward-bound Merchant Ships from the West Indies.

It cannot be imagined, that this Caution was defigned for their Prejudice, but rather entirely for their Service, as well as for the Safety of her Majesty's Ships; and as they own that the Norfolk, Warspight, and Exeter did sail with their Trade, so do they alledge, that the Nassau did not join them for want of necessary Orders, for the Fleet did not fail till three in the Afternoon, and the Nassau came to Spithead before Night; whereas, on the contrary, the Nassau passed through the Downs the 14th of October, 1706, and got as far westward as Folkston, but the Wind coming to the south. west, and there being a Likelihood of dirty Weather, she bore up for the Downs the 16th, from whence the failed the 18th at fix at Night, and arrived at Spithead the 20th, which was two Days after the Convoy failed; And their Lordhin may please to take notice, that a Dutch Convoy sailed the Beginning of January, 1705-6, in company of her Majelly's Ships; that the 25th of February, Captain Price failed with five Ships of War; that the 27th of March following, Sir George Bing failed thither with a Squadron; that the 18th of June, four other Ships of War sailed thither; and that in July the Merchants petitioned for a Convoy to go in August, which was appointed; and the Reason of their being stopp'd; and an Account of the whole Affair, their Lordships will be informed of by the Paper marked F.

16. They farther declare, that, by reason of the Insufficiency of this Convoy, several Merchant Ships were taken out of the Fleet off of Portland, and that afterwards, meeting with bad Weather in the Bay of Biscay, the Warspight and Exeter came back disabled, and that the Trade, except some sew Ships, proceeded to Lisbon with the Norfolk only.

The Convoy appointed for the Trade, were three Ships, one of 80, one of 70, and one of 60 Guns; and as this was thought

thought a fufficient Strength, fo were there not at that Time Anno 6 Anna any more Ships to reinforce them ; nor could it be forefeen. that two of the Ships would have been disabled in their Paffage, though Accidents of that kind have, and frequently

may happen.

Iny

ade

m-

an,

un-

nce

sin

) to

reft-

for

well

nw

heir

nem

till

be-

ffed

t as

uth-

fhe

hich

hips

the

fty's

with

Sir

h of

t in

guft,

p'd;

11 be

fuffi-

ken

ting

and

ome

hips,

Was

ught

17. Another Subject of their Complaint is, That great Numbers of Merchant Ships were in Portsmouth Harbour in the Month of December, 1706, and detained there for want of Convoy to the Downs, till the 23d of April following; and this, notwithstanding several of her Majesty's Ships were at Spithead (which they have enumerated) and that others came from the West, and did not call for them; and they particularly mention the Suffolk and Briffol.

All the Ships which the Merchants suppose lay idle at Portsmouth, during this Time, were under Orders for particular Services, as their Lordships may perceive by the Paper

marked G.

18. Another Complaint is made, That in the Month of Odober, 1706, Mr. Coward and Mr. Jones let their Ships to the Commissioners for victualling, on condition that they should go directly to Jamaica; whereas they were carried from the Downs to Port/mouth, thence to Portsmouth, from that Port to Ireland, and then to Barbadoes and Antiqua.

It is not doubted, but these Ships were taken up by the Commissioners for victualling, at so much a Month Freight; and her Majesty finding it necessary for her Service to send a Governor to her Island of Barbadoes, and some Forces which were to be embarked in Ireland with Provisions, and other Necessaries for the Plantations of Newis and Antiqua, there was a Necessity of these Ships accompanying the Convoy which was appointed for that Service, in regard there was not any other which was got in Readine's for them; and their Owners will be paid for the Time they have been employed in the Service of the Public, according to the Agreement made with them.

19. Mr. Palmer deposes, That in the Year 1705, a Ship, of which he was Part-Owner, with feveral others, were convoyed from the Downs to Portfmouth by the Litchfield Prize, but that, for want of Orders, she could not see them to Plymouth, where they might have joined the Pleet with Sir

Cloudefly Showel, bound to Lifbon.

Their Lordships may perceive how much this Person hath forgot himself, and imposed on them. For the Litchfield Prize did not arrive with the Trade at Spithead until the 7th of June; and Sir Cloudefly Showel failed from thence the 23d of May, passed by Plymouth the 25th of the said Month, and was off of Lisbon the 9th of June; fo that the Fleet was ac-

tually

Anno 6 Anna, tually at Liston two Days after the Time that this Gent 1707-8. tleman says the Litchfield Prize might have joined them at Plymouth.

20. As a farther Evidence, the Merchants have produced to their Lordships the Gazette of the 8th of May, 1707, wherein there is the following Paragraph from Oftend, viz.

A Fleet of Merchant Ships which lay five Months in the Downs, confisting of fifty five Sail, arrived at Oftend this B.

vening, to the great Satisfaction of this Place.'

This Advertisement was very ignorantly and unadvisedly inserted in the Gazette, the Fact itself being entirely wrong! For her Majesty's Ships, the Lyon and Deal-Castle, sailed to Oftend the 7th of February, and there were then no more than five Merchant Ships to accompany them ; and Sir Edward Whitaker, with his Squadron, did the like the 17th of April following, and faw the Trade into that Port, and brought what was there from thence; but he carried with him not above fifteen Ships and Vessels; and how that Number could swell to fifty five, is somewhat strange: Besides, it doth not appear, that at any one Time, from December to the Month of May, there were more than five Merchant Ships in the Downs bound to Oftend, and above three fourths of that Time not so much as one; and yet the Advertisement in the Gazette fays, That the fifty five Ships arrived at Offend from the Downs, and that they had lain there five Months for a Convoy.

21. As to the general Article relating to the untimely and unfeasonable Proceeding of Convoys, especially to the Well Indies, their Lordships are desired to be referred to what hath been already said at the Beginning of this Paper, re-

lating to that Matter.

22. The Virginia Merchants alledge, That in October, 1705, some of their Ships sailed from hence, under Convot of the Woolwich and Advice, which were ordered to stay ill reinforced from England; and that they were promised, the Greenwich and Hazardous should fail the first fair Windin January sollowing; but that they did not sail till May, which

occasioned their not reaching Virginia till August.

The Greenwich and Hazardous were ordered for this Service the 26th of February, 1705-6, but could not get clear from Plymouth till the 24th of April, and on the 27th they were forced by bad Weather into Falmouth; but the Hazardus failed soon after; for the Greenwich was disabled, and forced to come to Plymouth to refit: However, the said Ship, Greenwich, sailed from Plymouth the first of June, and arrived at Virginia the 11th of August; and the 17th of September came from thence, with the Hazardous, Woolwich,

and Advice, and 182 Merchant Ships, and arrived with them Anno 6 Anna 1707-8.

in the Channel in November following.

én.

n at

nced

707;

Viz.

the

s E.

edly

ng:

dto

than

vard

April 1

ught

not

ould

not

onth

the

that the

rom

or a

and

Weft

what

16-

ober,

roy

y till , the id in

hich

Ser-

clear

they

ard-

and

hip,

ar-

Sep-

wich, and

23. The faid Virginia Merchants have farther represented, That, in hopes of Convoys proceeding from hence to Vireinia, the last Spring, many Ships that carried Stores from hence to Lifton, and others from London, proceeded to Vira ginia, but remained there till September laft; expecting Conyoy, and must now come home without, in the Winter-Season. And, altho' the last Spring her Majesty, in Council, ordered a Convoy to be ready in August, yet the said Convoy remains at Portsmouth.

The Delays and Misfortunes which have happened this Year to the Virginia Traders, are, in a great measure, to be attributed to the different Interests and Opinions of the Merchants and Planters concerned in that Trade, to the frequent westerly Winds, which have hindered their Departure, and to the Delays occasioned by several Merchants letting their Ships to the Portugal Convoy, for transporting Horses to Lifbon; which will be more particularly explained to their Lordships by the Paper marked H.

24. They farther declare, That, for some Years past, there hath not been a Frigate appointed to take Care of the Virginia Coast; for want of which, many Ships have been ta-

ken going in, and coming out.

The Men of War which convoy the Virginia Ships have usually Orders to cruise between the Capes, while the Trade is loading: The Strombolo had those particular Orders; and the Gofport, which was taken in her Passage, (and which may occasion this Complaint) had the same; and the Garland is now upon that Service; and the Ships going to Virginia have the same Directions.

25. Complaint is made by Mr. John Wood, of the Difficulties he met with in September, 1706, and some time after, in getting a Ship of his, called, The Union Frigate, to Ports-

This Ship took in her Loading of Corn at Shoreham, one of the most difficult Ports along the Coast to get out from : But when the Ships of War are ordered, either eastward from Portsmouth, or westward from the Downs, they have always Directions to call at the several Ports in their Way; and several have been unsuccessfully appointed, to get the Ships and Vessels out of this Harbour.

26. The faid Wood does also affirm, That, in the Months of April, May, and June last, he had several Ships freighted with Corn at Shoreham, which could not proceed to Spitbead, by reason of the Enemy's Privateers: That at last there . 1707-8

Anno 6 Annæ, was a Convoy appointed, but foon after ran away, and lef the Ships, upon a Report that the Dunkirk Squadron was upon the Coatt.

The Convoy here meant, was the Charles Galley and Gofbort, tho' feveral others were before appointed to get those Veffels out of the Harbour : However, the aforefail two Ships did do it about the 19th of June, 1707, and, be. ing on their Way towards Spithead, they received an Expres from the Mayor of Hastings, with an Account, that there were eighteen Sail of French Men of War coming from the Eastward, with all the Sail they could make; which Advice. altho' it proved false, was not fasely to be neglected: But fo far were her Majesty's Ships from running from the Trade. upon this Intelligence, (as is falfly and maliciously infinuated) that they kept them Company, and brought them fafe to Spithead, as the Captain of the Charles Galley gave an Account, in his Letter of the 20th of June, 1707; and those Ships which occasioned the Alarm, were her Majesty's Ships the Defiance and Advice, with their Convoys, from the Downs.

27. Mr. Winter deposes, That he came from Gibraltar the 14th of March lott, in Company of the Pearl, Hanover, and Lodington Galleys; and off of Beachey Head, two of then

were taken by French Privateers.

These Ships were all Runners, (or, at least, called so) and had they put into Portsmouth, until an Opportunity of Convoy had prefented, the Person who complains of these Losses, would not have run the Hazard he did Nor, can it be thought, that these Ships, which the Merchants call Galleys, can, when they are laden and foul, fail much better than other Ships, not under that Denomination; and therefore are confequently as much subject to Missortunes, by going without Convoy; and, it is very reasonable to believe, that till this trading by Galleys or Runners grew to much in Fashion, the Losses were much less; and so, it is to be hoped, will be again, when the Merchants will learn to alter their Way of Trading, as the Enemy hath altered their Method of carrying on the War by Sea.

The remaining Part of their Lordship's Report, relates chiefly to (viz)

1. Our Merchant Ships being chased off of Beachey, and the Parts thereabouts, by the Enemy's Privateers.

2. The Advantages to the Mediterranean Trade, by carrying it on with Galleys; but the Hazards they run in their Return Home, for want of Cruifers in the Soundings and Channel.

3. A French Privateer's chafing a Dutch Ship into Ply Anno 6 Anna, mouth, on, or about the 14th of November last, whilst three 1707-8.

Welch Convoys rid fast for want of Orders.

4. That the Lift of 1146 Sail of Merchant Ships loft, was

far short of the real Number.

5. The Inconveniencies by pressing Men in the West-

Indies, and at their Return.

6. The Complaint of Mr. Benjamin Way, That the Captain of the Northumberland did not take Care of his Ship, called The London Galley, which sailed from Jamaica the latter end of February last.

As to the first, second, and fifth of these Articles, their Lordships are desired to be referred to what hath been al-

ready faid

les

Was

and

get

efaid

be.

pres

here

the

vice, But

rade,

e to

hole

fty's

rom

ltar

ver.

hem

and

con-

ffes,

t be

eys,

fore

ing

that

in

red,

neir

hod

ates

and

ar.

eir

nd

A

Then, as to the third, which relates to the chasing of a Dutch Dogger, it seems not at all material, only to swell a Complaint; but, as to what is infinuated, that the three Men of War did not stir, for want of Orders; it is well known, that when her Majesty's Ships get sight of an Enemy, they stand in need of no particular Orders to attack them; for their general Instructions, annexed to their Commissions, do sufficiently require that of them; but this happening at five a Clock in the Evening, in the Month of November, it was impossible for any of the three Ships aforemention'd, to have come up with the Privateer; and the Dutch Ship was secure under the Guns of the Fortification.

The Lord High-Admiral cannot. without great Concern, take notice of the List of 1146 Ships, said to be lost during this War: Altho' it is possible great Part of that Number consists of Galleys or Runners: That some Part of this Loss may be attributed to the inevitable Fate of War; and some hath arisen from the Wilfulness or Negligence of Masters of Merchant Ships, who, when sufficient Convoys have been granted them, have deserted that Protection, and exposed themselves a Prey to the Enemy, of which frequent

Complaints have been made.

Laftly, As to the fixth Article, which is the Complaint of Mr. Way, That Care was not taken of his Ship from the West Indies, their Lordships are desired to be referred to the Copies of two Letters herewith transmitted to them, marked L. and K. the one from Sir John Jennings, and the other from the Captain of the Northumberland; the which give a particular Account of that Matter, which was not complained of at the Admiralty-Office, before it was brought to their Lordships.

Thus much being faid to the Report of the Lords Committees, grounded upon the Depositions of the Merchants,

F f z which

Anno 6 Anne, which are partly what they fay of their own Knowledge, and the rest, what they have gathered from others; the Lord High-Admiral thinks it necessary to lay before their Lordships some farther Observations, under the following Heads, to explain some Papers which have been demanded

by their Lordships from the Admiralty Office.

1. That, notwithstanding almost the continual Use of her Majesty's Ships, the Loss sustained by Storms, (particularly in the violent Tempest in the Year 1703,) and the many Hazards they have been exposed to in this expensive War; the Number of Ships of the Royal Navy is so far from being diminished, since her Majesty's Accession to the Throne. that it is increased by ten Ships of War, altho the Parlia. ment hath not, in this Reign, given one Farthing of Money for building of Ships; and that the last War there was about four Millions given for that, and other extraordinary Services; and yet the Royal Navy was less in Strength at the End thereof, than at the Beginning, by twenty Ships of the Line of Battle.

2. That the Number of Ships of the Navy of France, which have been taken or destroyed by her Majesty's Ships this War, does much exceed our Losses, as will plainly appear by the two Papers marked L. and M. wherein there is no mention made of the French Ships, which have been taken or destroyed by the Ships of the States General.

3. That during the present War, there bath been 175 of the Enemy's Privateers taken, and many of them of conf-

derable Force.

That in the last War, which was declared the 7th of May, 1689, and ended the 10th of September, 1697, the whole Number of the Enemy's Ships taken and condemned was 1296; whereas in the present War, which was declared the 4th of May, 1702, unto the first of December, 1707, the Number of Ships taken from the Enemy, and condemned, is 1346, which carries with it no little Disproportion.

5. That the Re-captures by her Majesty's Ships of War, from the 4th of May, 1702, to the 1st of December, 1707, are 128, which amounted, by Appraisement, to above the Sum of 82,9751 and the Re-captures by Privateers within 38,054 /. both which Sums amounts unto that Time,

121,030/. exclusive of Customs.

6. That in the last War, the trading Part of the Nation had the Misfortune to lofe near 4000 Ships; whereas in this War, themselves have given an Account but of- 1146, and it were to be wished, that even that Loss could have been prevented. But here it may be observed, that, during the last War, we had the Ports of Spain, as well as those in the Spanish West. Indies,

Indies, always open to fecure our Merchant Ships and Veffels, Anno 6 Anna not only from the Enemy, but from bad Weather: Whereas, during the whole Course of this War, our Trade hath been entirely debarred from that so essential a Countenance and Protection.

heir

her

arly

any

ar;

beone,

lia.

ney Was

ary at

s of

nce, lips

ape is

een

of

nfi-

lay,

Was

the

the

ed,

ar,

07,

the

hin

nto

had

ere

ed.

we

es,

7. Besides, whilst her Majesty has yearly fitted her Royal Navy for carrying on the War Abroad, the Enemy hath, ever fince the Battle off of Malaga, totally altered their Mothods of carrying on their Naval War: And instead of fending forth great Fleets, they fill the Seas with Privateers, and with Squadrons of their nimble Ships, and by that means watch all Opportunities of feizing upon our Trade, for which the Situation of their Ports gives them but too good Opportunities; and yet our Merchants (who cannot but be fenfible of this Danger) carry on their Trade in a very great degree, in defenceless Ships called Runners; and they being obliged by Charter-Party to go without Convoys, are thereby but too often exposed to the Enemy, who lie in wait for them.

Lastly, The Lord High-Admiral desires their Lordships to do him fo much Justice, as to believe, that no Man is more fenfibly affected than he is, with the great Losses and Misfortunes which have happened to the Merchants; and he is so much the more sensible of them, because, in the Way those Gentlemen carry on their Trades by fingle, defenceless Ships, and by the Method the Enemy now takes, whilft the French King himself, and so great a Part of his Subjects, employ so many Ships and Med only to make War upon the Merchants, such Misfortunes will still happen; yet his Royal Highness does hope their Lordships will believe, that the Queen's Fleet has not been useless and unemployed during this War; which cannot be carried on, agreeable to the declared Sense of their Lordships, but by supporting a Superiority at Sea, upon the Coasts of Portugal, Spain, and Italy; in all which Places the Queen's Fleet hath done great Services the last four Years, and attempted some Things which might have secured Britain for one Age, from all the Naval Power of France.

The House took this Answer into their most serious Consideration, and finding several Facts stated therein very differently from what had been afferted by the Merchants, upon their Oaths, (who had therefore, according to the Methods of Justice, a Right to be farther heard by way of Reply) and finding several other Things alledged in the Answer, which at first fight seemed to be plain Mistakes, we thought it necessary, for our fuller Information and Satisfaction, to appoint a Committee to hear the Merchants, and also to make such Observations upon the Answer, as they should think proper.

Asno 6 Annæ, 1707-8.

The Committee having perfected their Report, and laid to before the House, the same was agreed to, and we think our selves obliged humbly to present this second Report to your Majesty.

Die Martis 17 Februarii, 1707-8.

Second Report of the Lords Committees. IN relation to the first Head of the Answer, which is conceived in general Terms, without being applied to any of the Particulars in the Merchants Complaints, some Things seem proper to be taken Notice of.

in the Report, are in the latter Years of her Majefly's

Reign.

The Lords Committees observe, That an Address of the House of Lords, presented to her Majesty in the Year 1704, did lay before her the heavy Losses of the Merchants, which had happened for want of Cruisers and Convoys for the Home-Trade.

Soon after the presenting of that Address, Sir George Big and Sir John Jennings were sent out to cruise, and continued cruising till the October following, during which Time the English Ships were well protected, and many of the Enemy's Privateers taken; and the Lords hoped there would have been no farther Occasion of Complaints from the Merchants: And all the Losses contained in the Report, now before the House, have happened since that Care was laid asside.

adly, It does appear by the Papers sent to the House from the Lord High-Admiral, That in the Year 1706, the highest Complement of the Ships employed in the Mediterranea supposing them manned to that Complement, did not exceed 17373 Men; and in the Year 1707, the highest Complement of the Ships employed there, did amount only to 15500 Men. And therefore, notwithstanding that part of the Flex which was made use of there, in both those Years, yet about 23000 Men of the Numbers provided for by Parliament, remained for the necessary Service of guarding and protessing the Coast and Trade; so that it seems not possible, that the keeping those Squadrons in the Mediterranean, could be the Occasion of the Cruisers and Convoys being so weak and sew, and the Coast so ill guarded.

3dly, The Strength of Convoys is to be proportioned to the prefent Circumstances of the Enemy, as far as Intelligence can be had, and the many Instances mentioned by the Merchants of Convoys attacked to our Disadvantages, shew by Experience, that most of our Convoys have been so weak.

The

'n

N

The second Head of the Answer is also general, but the Anno 6 Anna, Lords Committees observe, that the great Ships are the Strength of the Line of Battle, and if more first and second Rates had been employed in the Mediterranean, instead of so many third and fourth Rates, and smaller Ships, a much greater Number of Ships proper for Convoys and Cruisers, for the Protection of Trade in the Channel and Soundings, would have remained free for those Services; or, if there was sound to be a real Want of such Ships, timely and proper Application might have been made to the Parliament, who have ever been forward in providing for the Security of Trade. And, in the mean time, Ships might have been hired, as has been often done, rather than the whole Coast should continue in a manner besieged by the Enemies Men of War and Privateers, without Interruption.

2. The Want of Seamen is too well known, which proreeds principally from the many Hardships they suffer. The constant Practice now in use in turning over, or removing them from Ship to Ship, is of all others the greatest Discouragement, and though the paying them at the same time they are turned over, may have a fair Appearance, yet that being generally done when they are abroad, it tempts the Seamen to extravagant Expences, and proves in conclusion

the utter Ruin of their Families.

id it

our.

out

h is

ome

oned

fty's

the

704,

hich

the

Bim

the

ny's

nts:

the

rom

gh-

nean

ple-

590

leet

oout

ent,

ting

the

the

and

l to

elli-

the hew

100

The

3. Many of the Inconveniencies mentioned in this Paragraph of the Answer, could hardly ever happen in case an early Distribution was made of proper Ships for Convoys, and the Time of their Departure six'd; whereas very frequently Ships are appointed when they are at Sea, and it is unknown in what Condition they will return. The Merchants say, That this Year one of the Convoys named for the

Jamaica Trade, was at that Time in the Sound.

The Answer says, The Queen's Ships have as often stayed for the Merchants, as they for their Convoys; of which one Instance is given in the Paper marked A. The Fact may be so sometimes; but the Case mentioned in the Paper is not of that Sort; for there the Merchant Ships were lying in the Downs, together with the Assistance and Dunkirk Prize, two of the Ships of Captain Kerr's Squadron, and were ready to sail, and did sail with them to Spithead, where the rest of the Squadron lay. And, tho it be afferted, that Mr. Kerr's Ships were ready the 18th of February, at Spithead, yet it appears. that his Instructions do not bear Date till the 31 of March, 1706-7.

As to the third Head, relating to the Want of Cruilers, the Lords Committees observed. That it is not the appointing Cruisers yearly, which will protect Trade, but the care1707-8,

Anno 6 Anna, ful and strict Observation, that the Ships appointed for the

Purpose do cruise accordingly.

Whereas it appears in the Account of the Disposition of the Fleet, laid before the House of Lords, That no Shi was cruifing in the Soundings and Channel, in the Months June, July, August and September last, in which almost al the Galleys and homeward-bound Ships, whose Loss was heavily complained of by the Merchants, were taken and destroyed.

In relation to the arbitrary Proceedings of the Captain of the Queen's Ships of War, in impressing Seamen out ofth Merchant Ships in the West-Indies, as also upon their Retu to the Ports of Great-Britain, the fourth Paragraph of the Answer says, if any such thing has been done, it is contrary, Orders, and has never been complained of without a prop Upon reading this Passage, the Lords Committee fummoned Mr. Coward (to whole Complaint principal that Part of the Answer related) who attending, and bei examined as to the Matter of Fact, made Oath, that he often complained to the Prince's Council of these great Ha ships, and begged Relief from them, before he applied the House of Lords; that he could mention many other stances of the ill Usages he had suffered in the same kind,

That Year after Year, from the Beginning of the War, one of his Ships had escaped, having Men pressed out of the both at Jamaica, and upon their Return (if there then a Press) except such as had run through all Danger into

Downs, and fo got to London.

In particular he swore, that he had complained to Prince's Council, of Captain Johnson's impressing his l out of the Somerset Frigate, and Captain Roche's impre his Men out of the Walthamstow Galley, as also of tale away his Men out of the Gold Frigate, and produced to Prince's Council the Evidence he had of these several Fi but could not learn, that any of the Captains were punil or censured, or so much as once called to an Account for the Violences.

He also swore, that all the Captains he had employed the West-Indies have declared to him, that they who impro fed his Men at Jamaica, never shewed any Authority or Co fent from the Governor for so doing; and he affirmed, was ready to produce many Captains, who would swear fame Thing.

He faid, if such Orders are given as is afferted in the As fwer, the Prince's Council well know, by the frequent Conplaints of him and others, they are not observed eithers

In

Jamaica, or at Home

In the Sixth Paragraph of the Answer, which relates to Anno 6 Annæ, the Loss of the Lisson Fleet, under the Convoy of the Swift
fure and Warspight, it is stated in this manner: This Convoy had the Missortune to fall in with seventeen Ships of the Enemy's, which were going directly from Brest to the West
Indies, and by the greatest Chance imaginable met them in

their Paffage."

that

on of Ship hs of

ft all

tains
of the
etur
of the
ry a
rope
ittee
pall
bein
et
a
d
r,
the
n
n

the

ed a

pre Con

d, k

ir di

An

Con-

her #

In

And in the Paper marked C. (to which the Paragraph refers) after reciting an Account given by the Captain of the Swiftsure of this Action, and that most of the Merchant Ships escaped, the Paper C. proceeds thus: 'That as there was not any previous Notice of this Squadron of the Enemy's Ships, so if greater Strength had been added to this Convoy (which was not then to be had) it would have been but of little Advantage against such a Number of the Enemy's Ships.'

This seems so strange a Representation of this Affair, that it is necessary to lay before the House, the true Matter of Fact, as it appears upon a careful Examination of it by the

Lords Committees.

First, As to the Assertion; that there was no previous

Notice of this Squadron of the Enemy.

The Lords Committees refer to the Advices concerning the French Shipping fent to the Admiralty from the Secretary of State the last Year, (which Advices are now lying before the House) particularly to an Extract of a Letter from Mr. Secretary Harley's Office, dated at Rotterdam the 7th of February, N. S. and fent to M. Burchett the 1st of February, O.S. giving an Account of the Squadron of Ships then lying at Breft, and another from the Earl of Sunderland's Office, dated at Paris the 4th of February, N. S. and fent to Mr. Burchett the some 1st of February, O.S. As also to another Letter from Brest of the 3d of February, N. S. sent from the Earl of Sunderland's Office, to the Admiralty the 14th of February, O. S. giving a particular Account of the same Squadron, and the Strength of it, and that it was ready to fail, and to another dated at Brest of the 14th of February, N.S. fent from Mr. Secretary Harley to the Prince's Council the 24th of February, O. S. to the same Effect.

Secondly, As to the Affertion, that there was then no greater Strength to be had, it is to be observed, that a Dutch Fleet of nine Men of War, under the Command of Admiral Vandergoes, had laid for some time at Portsmouth, and sailed from thence the very same Day that Captain Griffiths, who commanded this Convoy, sailed in the Swiftsure from the

fame Place.

If Orders had been given to Captain Griffiths to have kept 1707-8: G g Com-

Anno 6 Annæ, Company with the Dutch Squadron, there had been a fuffi. cient Strength to have faved all the Ships under his Convoy But it appear'd, by the Examination of Mr. Jacob Hanchell Mr. William Wood, Captain Francis Cook, and Captain Ed. ward Smith, two Masters of the Merchant Ships which went under his Convoy, and also by a Letter of Captain John Hunt, another Master, dated from Dinant, where he was then a Prisoner, that Captain Griffiths was guilty of divers mot unaccountable Delays off of Plymouth, and thereby loft the Advantage of keeping the Dutch Fleet Company.

On the 23d of February, Captain Griffiths made a Signal of seeing seven Ships, and afterwards seeing seventeen; hut, instead of making the best of his Way from them, he lay by with an easy Sail (not suffering any of the Merchants to go a head of him) till those Ships came within Gun-shot, [al. though he could not but discern them not to be English Ships long before, and if they had been English, he had no Occa-When those Ships were come for fion to speak with them.) near, they put out French Colours; and thereupon the two Men of War, the Swiftsure and Warspight, made all the Sail away possibly they could, leaving the Merchants Ships, and Ships with Provisions for Spain and Portugal, which Captain Griffiths had under his Care, to shift for themselves, and of 18 Merchant Ships that were in the Company, 12 were to ken, so that most of them did not escape, as is afferted in the Answer.

It was also proved, that these French Ships were cruising, and not going directly to the West-Indies, as the Answeralferts, and that they kept cruifing all together about nine Days after this Action, and then fent their Prizes with five of their Men of War into Breft, and the rest of the Men of War continued cruifing about 14 Days longer, and then they also re

turned to Breft.

It was farther proved, that the Letter wrote from Dinant by Captain John Hunt, complaining of Captain Griffithis Behaviour, was by Sir Edmund Harrison and Mr. Henchel laid before the Prince's Council, who told them, they had been informed of the Matter before, and were fending Directions to Lisbon to have Captain Griffiths tried; to which Sir Edmund Harrison then objected, that such a Trial mut fignify very little, fince no Evidence could be had against him at that Place.

Notwithstanding, there was an Order sent in April last, for trying Captain Griffiths at Lifton, at a Court-Martial. The Lords Committees having defired to know what was done up on that Order, have been fince informed by a Paper dated from the Admiralty Office to this Effect, that he was tried accoraccordingly; and it is prefumed he was acquitted, because Anno 6 Anna, he was continued in his Command: But the Refult of the Court Martial is not sent to that Office; and he who acted as Judge-Advocate at the Trial is fince drowned. Paper goes on to fay, that the Trial was at the Defire of the Merchants, because there was no Evidence against him at

Whereas it is observed before, that Sir Edmund Harrison told the Prince's Council, there would be no Evidence against

him if he were tried at Lifbon.

uffi-

oy.

kell.

Ed.

ent

obn hen

noft

the

nal

but,

by

go (al-

lips

cca-

e 10

two Sail

and

tain of ta-

the

ng,

al-

eir

:00-

16-

ant

bi's

kell

had

Di-

nich

nuft

inf

for

The

up-

ried

01-

The ninth Paragraph of the Answer relates to the Loss of the Hampton-Court and Grafton Men of War, which, together with the Royal Oak, and the Merchant Ships under their Convoy, failed from the Downs the first of May last.

The Answer affirms, that, notwithstanding what Mr. Dawfon swore before the Lords, that he was told at the Admiralty-Office, the 29th of April last, that the Dunkirk Squadron was gone westward; yet there was no Notice at that Time of the Dunkirk Squadron, otherwise than that they were in the Flemish Road: Wherefore the three Men of War, one of 76, and the other two each of 70 Guns, were judged a sufficient Convoy from the Downs to Spit-

Mr. Dawfon being ordered to attend the Lords, and acquainted with what was charged upon him, did again affirm upon Oath, that the Governor and Committee of the Mufcovia Company, of which he was one, attended the Prince's Council on Tuesday the 29th of April last, to know what Convoy was appointed for that Trade; and, being told by the Prince's Council, that one fourth, and two fifth Rates would be their Convoy, the Governor and Committee represented their Fears of Danger from the Dunkirk Squadron; but were then told from the Board, they need be under no Apprehension on that Score, for the Dunkirk Squadron was gone to the Westward.

He also mentioned many Circumstances, which made him so very positive as to the Time; and observed, that if the Committee had been told at the Board, that the Dunkirk Squadron was then in the Flemish-Road, it was so far from being an Argument to perfuade them to acquiesce with so imall a Convoy, that it must have increased their Fears, that Station being equally proper for the Squadron to fail, either to the northward or westward.

Sir Benjamin Ayloff, Governor of the Muscovia Company, and five of the Committee of the same Company, (viz.) Mr. Randolph Knipe, Mr. Henry Phill, Mr. Josiah Wadsworth, Mr. Thomas Stiles, and Mr. Samuel Heathcote, did also

feverally

Gg2

1707-8.

Anno 6 Annæ, severally depose, that they did attend the Prince's Council, the 20th Day of April last, and then were told from the Board, that the three Ships designed for them were sufficient for their Security, because the Dunkirk Squadron was gone westward, and four of them, (viz) Sir Benjamin Ayloff, Mr. Wadfworth, Mr. Styles, and Mr. Phill, fwore, they believed Admiral Churchill was the Person that told them fo, but, as

ca

to

ic

Sobio

to that Particular, they were not fo positive.

This Matter of Fact being directly proved by fo many Persons of unquestionable Credit, the Lords Committees think, that, by the Reasoning used in the Answer, the Prince's Council could not judge the three Men of War a sufficient Convoy, and confequently ought to have fuffered them to fail westward on the first of May; especially considering, that from time to time Notice had been fent to the Admiralty. Office, from both the Secretaries of State, of the Strength of the Dunkirk Squadron; and when it is so fully proved, that they owned, that they had Notice that the Squadron was gone westward.

The tenth Paragraph of the Answer relates to the Complaint of the Merchants, touching the Russia Ships.

The Instructions to Sir William Whetstone, of the 10th of June last, take notice, that the Dunkirk Squadron was gone northward, and that there was Reason to believe they were defigned for the Coast of Norway; and that they would look out for, and endeavour to intercept the Fleet bound to Russia for naval Stores; which made it absolutely necelfary, that the Convoys to that Trade should be strengthened; and he is thereby directed to proceed with all the Merchant Ships under his Convoy, as far as the northermost Part of the Isle of Shetland, and there to leave them to profecute their Voyage with their proper Convoy.

The Lords make this Observation, that, after such Intelligence, it appears very reasonable, that Sir William Whitflone's Orders should have been, to see a Fleet of such Con-

sequence out of Danger, before he left them.

The Lords Committees do think it necessary to inform the House, that Captain Nenyon Masters, Commander of the Ship Nenyon and Benjamin, made Oath, that, on or about the ninth Day of July last, his Ship, together with about eleven or more English Ships, were unfortunately taken in their Voyage to Archangel, by the Chevalier Fourbin's Squadron, confisting of seven French Ships of War: That his Ship was the first taken, and he was immediately carried on board Monsieur Fourbin, who demanded of him what Number of Convoys the English Fleet bound for Archangel had with them. He answered, Twelve Sail: To which Fourbin replied, he spake what was false, for there were only three

Ships of War Convoy to the English Fleet; Fourbin then de- Anno 6 Annæ, claring, that he knew Admiral Whetstone, with his Squadron, came with the Fleet no farther than the Isle of Shetland, and

then returned back again.

ncil,

the

cient

cone

Mr.

eved

t, as

any

tees

ice's

ient

n to

that

ltyh of

ved,

Was

om-

n of

one ere

blu

und

cel-

ththe

er-

em

li. bet-

on-

rm

the

the

ren

113

on, vas

ard

of

ith re-

ree

As to the eleventh Head of the Answer, respecting the Merchants Complaint of the Weakness of the Convoy sent for conducting the King of Portugal's Horses and the Trade to Liston, the Lords Committees do only-make this Observation, that the Fleet having lain at Spithead for many Months, whereby the Enemy had an Opportunity of knowing the Value and Consequence of it, and Notice being taken in the Orders to Captain Edwards, of the 7th of September, 1707, of a Squadron of the Enemies Ships cruifing betwixt Scilly and Ushant, and Notice being also taken in the Orders of the 6th of October to Sir John Leake, that Monsieur Four-bin was failed from Brest with several Ships, and was to be joined with others, it feem very unaccountable, that at last fuch a Fleet should be suffered to fail without a greater Strength.

The 13th, 14th, 15th and 16th Paragraphs of the Anfwer, relating principally to the former Deposition of Mr. Jacob Henckell, the Lords Committees ordered him to attend again; and he was farther examined in relation to the Facts mentioned in the Answer.

He defired to observe, that the 13th Paragraph made him lay what was not in his Deposition; for he did not say, the Corn-Ships were ready to fail in July and August, but, that a great Quantity of Corn was bought in those Months.

If any thing was concerted at the Hague, that the Ships of the States General should call at Spithead, to take our Merchant Ships under their Convoy, it was strange no Notice should be given of so good an Agreement, that so the Merchants might have disposed their Affairs for taking the Benefit of it, especially when he and other Corn-Merchants very frequently applied to the Prince's Council, to know when they might expect a Convoy.

As to what is faid of the great Number of Convoys which have gone between England and Portugal fince April, 1703. Whereas the Dutch have seldom sent above one Convoy in a Year, and the Inference made from thence, that therefore it is not probable the King of Portugal's Magazines and Ar-

mies should be furnished from Holland,

Mr. Henckell still affirmed the Fact to be so as he had formerly sworn, and that, at the very Time of his Examination, the Portuguese have great Quantities of Corn shipped in Holland; and tho' the Dutch have not fent so many Convoys as have gone from England, yet they go at certain and proper Anno 6 Annæ 1707-8. proper Times, by reason whereof their Corn arrives in a good Condition; whereas the unaccountable Delays and Uncertainties of the English Convoys have been the Occasion of great Losses to our Merchants, and great Disappointments to the Portuguese.

He also took notice, that of the many Convoys enumerated in the Answer, several of them were Fleets or Squadrons of Men of War, of which the Merchants had no Notice, nor were allowed to have any Benefit, as appeared by the 14th Head of the Answer, relating to the Fleet that

failed with Sir Cloudsley Showel.

In the 14th Head of the Answer, much Weight seems to be laid upon this, that the Nassau did not arrive at Spithead till the 20th of October, whereas Mr. Henckell, in his Complaint, had sworn the Nassau came to Spithead the 18th to Night, the same Day the Convoy sailed from thence. To clear himself, Mr. Henckell produced two original Letten signed by Cornelius Collier, his Captain, written from Porst mouth, the one dated the 19th of October, which says, the Nassau came too late for the Convoy, but was at that Time at Spithead; and the other dated the 25th, which says expressly, the Nassau came to St. Helens the same Night the Liston Fleet sailed. Mr. Henckell affirmed also, that he had other Advices which sully verified what he had said in his former Deposition, as to the Nassau's arriving the 18th a

Spithead.

Mr. Henckell farther faid, that the Convoy mentioned in that Paragraph of the Answer, confisting of four Ships of War, which is there faid to have failed the 18th of Jun, does appear by the Paper marked F. (to which the Pangraph refers) to be a Convoy that failed from Portugal that Day, and so does not contradict what the Merchants had infifted on in their Complaint, that there was no Convoy for Portugal between March and October, a homeward-bound Convoy being mistaken in the Answer for an outward bound Convoy, and consequently it was no Contradiction to what the Merchants had affirmed: And tho' in the 16th Pangraph of the Answer it be afferted, that the three Ships appointed for Convoy to the Portugal Fleet, were at that Time thought a sufficient Convoy, Mr. Henckell swears, the Prince's Council (by the Reasoning of the Merchants before them) was convinced of the contrary, at the Time the Convoy was ient, and did then pretend no other Reason for their mi firengthening it, but want of Ships. And he defired to refer particularly to the Remonstrance of the 10th of October lat, which was delivered at that Time by the Merchants to the Prince's Council, and is now lying before the Houlet whereby, whereby, in very strong Terms, they represented their many Anno 6 Annosometric Solicitations without Effect, the great Delays they had met 1707-8. with, and their great Sense of Danger, if they should proteed without that Convoy, as well as of their certain Ruin by any farther Delay.

The 17th Head of the Answer says, that the Ships which he Merchants supposed lay idle at Portsmouth so long, were nder Orders for particular Services, as appears by the Pa-

ers marked G.

in :

and

afion

nents

ume.

Squa-

d no

that

ms to

thead

Com-

th at

etten orif.

, the

Time!

ex-

the had

n his

th at

ed in os of time,

ara-

that

had

y for ound

ound

what Paras ap-

Time

nce's

hem) was

not

refer

laft,

wfe;

eby,

Upon Consideration of this Paragraph, and of the Paper narked G. to which it refers, the Matters of Fact, whereof he Merchants did complain, seem, in effect, to be admitted obe true; and the Services for which it is alledged the Ships were designed, do not appear so pressing, but that some of hem might have been employed to help the Merchants in heir great Extremity.

As to the 18th Head, which relates to Mr. Coward's Complaint of the long detaining of his Ships let to Freight to he Commissioners of victualling; the Answer says, it is not oubted they were taken up at so much a Month freight, and he Owners will be paid for the Time they have been employed, according to the Agreement made with them.

Mr. Coward deposed, that his Ships were not taken by he Month (as the Answer alledged) but the Contract was at hree Pounds a Tun, directly for Jamaica, which might are been performed in seven or eight Weeks: Whereas, y means of the Deviations complained of, they have been letained ever fince the 15th of November, 1706, and were et in Ireland at the Time of the Complaint, whereby the hips are ruined, and he left at Mercy, as to any Satisfaction.

The 19th Paragraph of the Answer takes notice, how far In. Palmer had forgot himself, and imposed upon the Lords n his Deposition, for that the Litchfield Prize did not arrive t Portsmouth till the 7th of June; whereas Sir Cloudesty hovel was off of Lisbon the 9th of June; and therefore it was not possible that the Litchfield Prize should have joined him t Plymouth.

Mr. Palmer being examined as to this particular, faid, That in this Complaint it was alledged, the Litchfield Prize ame to Spithead the 7th of July, not of June, as it is repeated in the Answer; but he owned his Mistake in saying, if the Litchfield Prize might have proceeded to Plymouth, the Corn-Ships might have joined Sir Cloudesly Showel's Fleet; whereas he meant to have said, the Transport-Fleet, which it that Time lay at Plymouth bound to Portugal.

To shew that it was a mere Mistake, he produced to the Lords three original Letters from Portmouth, wrote by his

Anno 6 Annæ, Masser, Richard Riccard, dated the 7th, 12th, and 28th of 1707-8. July, which mention the Transport-Fleet, which had lain for a considerable while at Plymouth, and (as those Letter

fay) failed for Portugal about that Time.

The twentieth Paragraph, affirming that the Article in the Gazette of the 8th of May, 1707, which the Merchant had produced, was very ignorantly and unadvisedly infen. ed, the Fact being entirely wrong; the Lords Committee thought fit to be informed, how that Passage came to be put into the Gazette; and upon Examination it appeared, the Mr. Stepney the 12th of May, N.S. wrote a Letter from Antwerp to the Earl of Sunderland, at the Solicitations of fome confiderable Traders there, representing the Hardhim they lay under for want of a Convoy from Oftend, (tho' had been promised, and several Times notified on the Exchange of London) to their great Loss and Discouragement and what was like to have an ill Influence on that Track which was in a Way of being better established than ever and that, afterward, upon the Arrival of that Fleet at Offel, Mr. Stepney wrote another Letter to the Earl of Sunderland dated the 14th of May, N.S. the very Words of which fecond Letter are those transcribed into the Gazette.

The Complaint of the Merchants, in relation to the Virginia Trade, confifted of many Particulars; none of which feem to the Lords Committees to be answered or excused, by what is alledged in the 22d, 23d, and 24th Paragraphs of the Answer, nor by the Paper marked H, to which the 24

Paragraph does refer.

The 25th and 26th Paragraphs of the Answer, which is late to the Complaint of Mr. John Wood, of the Difficulties and Delays he met with in getting his Vessels, loads with Corn, to Portsmouth, containing nothing in particular, besides one Matter of Fact, viz. That the Charles Galley and the Gosport, the two Convoys for the Corn-Ships in Spithead, were so far from running from the Trade lass was falsly and maliciously infinuated by Mr Wood) that they keep the Merchant Ships Company, and brought them safe in Spithead, as the Captain of the Charles Galley informed the Prince's Council by Letter.

Mr. John Wood being sent for, and charged with this Matter, produced two Letters, which he made Oath were fent to him from Portsmouth, by Captain Edward Friend, in Master of one of the Corn-Ships; the first dated the 21st, and the other the 22d of June last, wherein it is express affirmed, that, about eight o'Cleck in the Evening, the Commander of the Convoy sent his Boat aboard the Merchant, to tell them the News, that the Dunkirk Squadron was at Sa,

and at the same time to let them know that the Convoy will Anno 6 Anne, take no farther Care of them, but would make the best of 1707-3. their Way to Portsmouth, and the Merchants must shift for

themselves.

th of

lain

etten

le in

hant

nfert.

e put

that

from

ns of

Thips

no' it

e Ex.

ment.

rade.

ever;

stend,

land,

which

e Vir.

which

cufed.

ohs of

e 230

ch re-

ffical-

oader

cular,

Faller

ips to

s Was

kept

afe m

d the

1 this

Wert

d, the

214

prelly

Com-

hants,

at Sea,

and

Captain John Falkner, the Master of the Mary, another of the Ships from Shoreham, made Oath, that the Commander of the Convoy sent his Boat aboard the Merchants, to tell them, that he had Advice of a French Squadron, and that they must shift for themselves; for they would take no Care of them, but would make the best of their Way to Portsmouth, and he swore the Convoys were as good as their Words, and made away with all the Sail they could, and got in thither a considerable Time before the Merchants, who were in very great Danger of being taken, having been chased at least eight Hours by a French Privateer.

The same Captain did, upon his Oath, confirm what Mr. Wood had before alledged, that for sull six Months, while he lay at Shoreham, the French Privateers did continually cruste on the Coast in considerable Numbers; but in all that Time he could never see or be informed of any Man of War crust-

ing to prevent or intercept them.

As to what is said in the Answer, that the Men of War who sail eastward or westward, have always Directions to call at several Ports in the Way; Mr. Wood added to what he had said before, that if they had such Orders, it was strange not one of them should ever appear off of that Harbour in fix Months Time.

The 27th Paragraph of the Answer relates to the Merchants Complaints of the many and great Losses of Ships of Beachey, and upon the English Coast in their Return Home.

What this Paragraph fays, is, that these Ships were Runners, and should have put into Portsmouth till they had an Opportunity of Convoy; but when the Merchants shall leave off trading in these Galleys or Runners, (which are subject to many Missortunes by going without Convoy) it is to be hoped their Losses will be less.

Their Lordship cannot think it strange, if the Merchants are very unwilling to put into Portsmouth, in hopes of Convoy, after the Instances given by them of their Ships lying there for many Months, in vain Expectation of Men of

War to convoy them.

As to the Proposal for the Merchants leaving off to trade in Galleys, in Expectation of Convoys: The Lords Committees observe, the Use of this kind of Vessels was taken up during the late War, and has been continued ever fince with very great Success till within two Years last, during which Time there has been, in a manner, a total Neglect of 1707.8.

Hh having

Anno 6 Annæ, having any Cruilers in the Channels or Soundings, or any 1707-3. Men of War to guard the Coasts.

These Ships are built for failing, and also to row with Oars, and carry no more Goods than are proper for failing and carry twice the Number of Men to a common sailing Ship, and are of Force from sixteen to forty Guns.

There is no Convoy granted to any Trade within the Streights but to Turkey only, which is never above once in the Year, and must be acknowledged to be too seldom to answer the Occasions of the Traders to Leghern, Genoa, Venice, and other Places in those Seas.

If therefore the Use of Galleys or fingle Ships be laid down; (for if any fingle Ships be used in trading, it will be granted, the Galleys are better Sailors, and have the Advantage of any common built Ships) and all the Mediterranan Trade is to be carried on by Convoys, that whole Trade will be in a manner lost to England, especially in respect to Fish, and other perishable Commodities; and would be soon felt in a very heavy Manner in all Parts of the Nation, the great Consequence of that Trade fully appearing by the Merchants Proofs set down in the Report made upon their Pettion.

It is necessary for the Sasety and Honour of the Kingdom, and of all manner of Trade whatsoever, that the Channel and Scundings be well guarded; and if this be done, the Trade in Galleys own they have no Reason to complain.

The Enemy have not altered their Way of making War by Sea: They always endeavoured to infest our Trade by their Privateers, to as great a Degree as they could; but it must be owned, that of late they have had greater Success than ever, and the great Encouragement they met with, the Sea, in effect, being laid open to them) it is too probable will from increase their Numbers.

The Merchants do insist, that the List of 1146 Ships, given in by them, does not contain all their Losses during this War, but, in a manner, such only as have been taken in the Channels and Soundings, within two or three Years last past, and principally such as do belong to the Port of London.

They have already had an Account of thirty-four ships taken in the Channels and Soundings, fince they made their Complaint to the House of Lords; of which ships they delivered a List to the Committee, and affirmed, that the loss of those ships, by a modest Computation, amounted to above 17,000l. They affirmed, that besides those named in that List, several other rich ships are missing, and many of them, they fear, have met with the same Fate, the Channel and Soundings being insested with the Enemy's Men of War and Privateen

Privateers as much as ever. The neutral Ships which come Anno 6 Annæs into the Ports of Britain, declaring, that they have been boarded by them in those Places several Times in a Day.

The Answer (as to what concerns Mr. Benjamin Way) fays expresly, that Matter was not complained of at the Ad-

miralty-Office, before it was brought to the Lords.

This seems very strange, for it appears plainly by the two Letters marked \mathcal{F} and K, referred to in the Answer it. self, and sent therewith to the Lords, that both of them were written upon Occasion of a Complaint made by Way to the Admiralty, and are only Copies of the very same Letters which were annexed to Way's Complaint to the Lords, and were sent together with the Lords Report to the Lord High-Admiral.

This is what the Lords Committees have humbly to offer to your Lordships, in relation to so much of the Answer

as concerns the Merchants Complaints.

The remaining Part of it seems entirely foreign to the Subject of the Report, containing only an unnecessary Comparison of the Management of the Naval Affairs in this and the late War; since any Faults or Errors, which might have happened at that Time, would not lessen the Missortunes of the Merchants, or justify any wrong Conduct at present. But the Lords Committees think themselves obliged to lay before your Lordships, several very plain Missakes which they find in this Part of the Paper.

In the first Observation it is afferted, that the Parliament has not, in this Reign, given one Farthing of Money for the building of Ships; and that in the last War there was about four Millions given for that and other extraordinary Services, and yet the Royal Navy was less in Strength at the End thereof, than at the Beginning, by twenty Ships of

the Line of Battle.

any

ing,

ling

the

e in

an-

nice,

laid

l be

nean

Will

ift.

t in

reat

ler-

eu-

the

.

Var

it

ek

the

vill

ıft,

de-

nd

This is so far from being a right State of the Case, that in this Observation there appears, at first Sight, a Mistake of no less than three Millions in four, the whole Sum given for building of Ships in the last War not amounting to one Million.

This, in effect, was afterwards confessed in a second Paper sent from the Admiralty Office, of the 28th of January, 1707, by way of Explanation of a sormer Paper delivered

to the Lords Committees from that Office.

In this second Paper, Notice is taken of the Numbers and Rates of Ships provided for by Parliament, and the Days are set down when the Money was voted for them, but the Sums are omitted, which would have too plainly contradicted the Affertion, that four Millions were granted.

Hh 2 The

Anno 6 Annæ, 1707-8. The true State of that Matter will appear by the fore mentioned second Paper, if the Sums be added, as the same are set down in the first of those Papers from the Admiralty. Office, and is as follows.

There was given for building Ships.

10 O.30. 1690, of the 3d Rate, N° 3— 88008 10 00

24 Dec. 1690, of the \{ 3d \text{ Attes} \} \frac{17}{10} \text{ 570000 00 00} \\
2 Dec. 1692, of the 4th Rate — 8— 79308 00 00

30 Nov. 1694, \{ of the 2d Rate — 4 \} \frac{70000 00 00}{138424 00 00} \\
6 Dec. 1695, \text{ of the } \{ 3d \text{ Rates} \} \{ 8\} \} \text{ 65835 18 11}

1011576 08 11

Memorandum, That the one-third Excise which was given for 570000 l did produce but 842617 l. 11s. and two Perce Halfpenny, of which there has been paid for building the twenty seven Ships 453591 l. 19s. and to other Use 29025 l. 12s. and two Pence Halfpenny.

These were all the Sums granted by Parliament for building Ships during that whole War: The other Sums set down in the first Paper, which makes the whole Amounto 45795711 4s. and two Pence Halfpenny, were either for the ordinary and current Service of the Navy, as Seamens Wages, Victualling, &c. or for such particular Uses as had no Relation to the building of Ships, such as the Payment of marine Officers, Register of Seamen, &c.

The second Mistake in this Observation is, that the Royal Navy, instead of being less at the End of the late War by twenty Ships, than it was at the Beginning, was increased by one hundred and thirteen Ships and Vessels, of which thirty nine were of the Line of Battle, besides twenty one Ships which were building on the 30th of December, 1697, whereof

thirteen were of the Line of Battle.

And though in the same Observation it be alledged, that nothing has been given in this Reign for building of Ships, yet the Provision for the Navy in general, has been much larger in this War than in the last; for in this Reign there has been granted for the Use of the Navy (including the Ordnance for Sea-service, and the Sums voted for the Service of the Year 1708) the Sum of 15366867 1. 175 10 d.

Whereas all the Sums received by the Treasurers of the Navy,

Navy, between the 5th of November, 1688, and the 30th Anno 6 April of September, 1697, (including the Money given for building 1707) Ships) only amounted to the Sum of 151368981. 13. 5 d.

It may be also observed, that in the Year, 1698, there were one hundred and five Ships of the Line of Battle in thorough Repair; whereas it appears that on the 6th of December, 1707, three first Rates, eight second Rates, fix third Rates, and two fourth Rates wanted rebuilding or great Repairs, which, confidering the Nature of the Ships, makes a great Part of the Strength of the Line of Battle.

The Second Observation takes notice, that the Number of the Ships of the Navy of France, taken or destroyed by her Majesty's Ships this War, does much exceed our Losses, as appears by the Papers marked L and M, where there is no mention of the French Ships destroyed by the Ships of the

States General.

fore. fame

alty.

00

00

00

00

00

11

11

.

for

TCE

the

les

ild.

fet

t to

for

ens

ad of

al

by

ty

ps

of

at

)5,

te he

ce

The Lords Committees take notice, that by the Paper L. it appears the greatest Number of the Enemies Ships, and those of the greatest Consequence, were take nor destroyed in the Harbours of Vigo, Gibraltar, and Oftend; at the two first of which Places the Ships of the States General affifted.

And that during the War, only twenty five Ships of all forts have been taken or destroyed by cruifing Ships at Sea, and of that Number only five Ships from 30 to 60 Guns.

By the Paper marked M, it appears that the Number of her Majesty's Ships and Vessels taken and destroyed by the Enemies, during the present War, are thirty five, thirteen whereof are Ships of the Line of Battle, from 50 to 80 Guns.

The Sixth Observation is, that, in the last War, the Trade of the Nation had the Misfortune to lose near 4000 Ships.

This appeared so very strange to the Lords Committees, that they fent, to the Admiralty-Office to be informed, if there were any Lists of those Ships, or what Grounds they had for making that Affertion.

The Answer sent in Return to this Message, was a printed Paper, without any Name of the Author or Printer, in which are these Words: It is generally allowed, that the Number of Ships and Vessels miscarried since the War, does

not fall short of 4000.

Upon Confideration of this Paper, it appeared to be a Libel, written as a pretended Answer to an Account published by Authority in the Year 1695, of what Men of War and Privateers had been taken from the French, from the Beginning of that War; and, it contains in it not only scandalous Reslections upon the Parliaments of that Reign, but notoriously false Representations of Matters of Fact, which might have easily been known to be so at the Admiralty-

Anno 6 Annze, 1707-8.

Admiralty-Office; and therefore it seems very strange, that such a Libel should be offered as a Proof to the Lords, is an Answer which is supposed to come from that Office.

But, as an Evidence that there can be no Foundation of Truth for this Afferrion, the Lords Committees offer to your Lordships Consideration, that the Number of English Priloners, who have been returned from France, from the Beginning of this War to December last, amounted to 18011, and there then remained in France 2000 more; whereas the Number of English Priloners returned from France, from the Beginning of the late War, until the 24th Day of Jun, 1698, did amount to no more than 15250.

And it is not probable, that the Ships taken in former Wan should be so many more than those taken in the present a is pretended) when the Prisoners are so remarkably sewer.

To the latter Part of this Sixth Observation, That during the last War, we had the Ports of Spain, as well as those in the Spanish West-Indies, open to secure our Ships, not only from the Enemy, but from bad Weather.

The Lords Committees say two Things: First, That in now, they never heard that the Ports in the Spanish Was Indies were at any time open to secure English Men of War

or Merchant Ships.

Secondly. That the many great Losses complained of by the Merchants, appear to have been in the Channel and Soundings, and consequently the Spanish Ports, though open, would have been no very effential Countenance and Protection to them.

May it please your Majesty,

We having thus performed what we take ourselves to be indispensibly obliged to, cannot doubt but it will be graciously accepted by your Majesty, as coming from most dutiful Subjects, who fincerely wish they may never have Occasion hereafter of making Addresses to your Majesty, but to congratulate your Success, or to return our humble Acknowledgements for the Blessings of your Reign.

Iedgments for the Bleffings of your Reign.
We befeech your Majesty to believe, that none of your
Subjects do exceed us in true Respect to his Royal Highness the Lord High-Admiral: His great personal Virue
require it, and his near Relation to your Majesty makes it
our Duty: And as we do not mean that any thing in this
Address should in the least reslect upon him, so we are very

well assured, his Royal Highness will never suffer other Persons to pretect themselves under his Name, from a just

Pursuit of such Faults or Neglects, as immediately tend to the Ruin of Trade, and the Destruction of Britain.

There cannot be a plainer Proof, that fome Persons em- Anno 6 Anne, ployed by the Lord High-Admiral have made the worst Use imaginable of the Trust he honours them with, than in their prefuming to lay such an Answer before the House of Lords in his Name.

For (not to take notice of the many Things which in the fecond Report have been already laid before your Majesty) throughout the whole Paper, there is no Hopes given, that for the future, any better Care thall be taken of the Trade; on the contrary, the whole Turn of the Anfwer feems to be intended for exposing the Complaints of the Merchants, rather than pitying their Losses. We are fure nothing can be more remote from the Goodness and Compassion of the Lord High-Admiral's Temper, and the tender Regard he has always shewn for your Majesty's Subjects.

May it please your Majesty! daring and : pointing of bonso

, that

is, in

è.

on of

er to

nglif

n the

Bott,

s the

m the

June,

Wan

nt las

wet.

uring

ofe in

only

t till

Weff-Wat

of by

l and

open,

otec-

to be

raci-

atiful

afion

con-

now.

your ligh-

rtues

es it

this

very

other

juft

nd to

here

It is a most undoubted Maxim, that the Honour, Security and Wealth of this Kingdom does depend upon the Protection and Encouragement of Trade, and the improving and right managing the naval Strength. Other Nations, who were formerly great and powerful at Sea, have by Negligence and Misconduct lost their Trade, and seen their maritime Strength entirely ruined. Therefore we do in the most earnest Manner beseech your Majesty, that the Sea Affairs may always be your first and most peculiar Care. We humbly hope that it shall be your Majesty's chief and constant Instruction to all, who shall have the Honour to be employed in your Councils, and in the Adminifiration of Affairs, that they be continually intent and watchful in what concerns the Trade and Fleet; and that every one of them may be made to know it is his particular Charge to take care that the Seamen be encouraged, the Trade protected, Discipline restored, and a new Spirit and Vigour put into the whole Administration of the Navy.

Her Majesty's most gracious Answer to the Address.

My Lords.

Will take Care to make the most useful Observations on the several Particulars contained and referred to in your Address.

" It was always my Opinion, That the Encouragement of Trade and Seamen, and the good Management of the Navy, are of the greatest Importance to the Prosperity of " this Kingdom.

" And

on the Militar-

-ni shi to saar

Fire Ministry's

Anno 6 Annæ, 1707-8.

" And therefore you may be affured, I will use my utmos Endeavours to encourage all those whose Duty it is, effect tually to perform those Services."

The Pretender kirk.

While the Nation was thus busied in the Enquiring in wrives at Dun- the Milmanagements of the Fleet and Army, it was alarmy by the Arrival of the Pretender at Dunkirk, with a Body of French Troops; and the Preparations that were made de for their Embarkation. It was immediately apprehended that this Expedition was defign'd against her Majesty's De minions; and Mr. Secretary * Boyle acquainted the Houle of Commons, with the Advices her Majefty had received of a intended Invalion; whereupon an + Address was drawn up, in which the House of Lords concurr'd, and on the city March both Houses attended her Majesty with it.

Congratulation on the Miscarriage of the in-

But the Sight of Sir George Bing, with a ftrong Squadro, ftruck such a Pannic thro' the French Fleet, that this Affin came to nothing: On which Occasion the Lorde attended he Lords Address of Majesty with an Address, March the 1 get, thanking her for the vigorous Methods the had taken against the Pretendent and affuring her of their Concurrence; and suggested allo tended Invasion, that the inconsiderable Forces the Enemy employed in this Actempt, must proceed from some Invitation from beaut and was an undeniable Proof, that neither the Mildrel d her Majesty's Government, nor the Successes of her Rein sould reconcile some Men to the Blablishment: They hold her Majesty would have a just Detestation of those Person who, at the Time of this hellish Attempt, were misrepe fenting the Actions of her best Subjects, and creating les lousies in her Majesty of those, who had always service most eminently and faithfully ; and desir'd no such Perion might have Acceptation for the future: And they hope her Majetty would principally depend upon, and encoung those, who had been, ever fince the Revolution, most fleat and firm to the Interest of the late King and her Majety.

To which her Majesty reply'd, as follows:

My Lords,

Hier Majely's Anfwer.

Am extremely fensible of your Zeal and Concern to the Safety of my Person and Government, and an very well pleas'd to find your Thoughts agree forexacti

+ See the faid Address in CHANDLER's Hift. Anno 6 Anne, 1701 Page 89.

Afterwards Lord Carleton. Mr. Harley (finding himfelf fret by the Practices tried on Greg, one of his (lerks, under Sentente Death for giving Intelligence to France) had refigned on Difguft, Feb. 18 and was followed by Sir Thomas Mansel, Mr. St John, and Sir Simu Harcourt, Attorney-General.

" with mine, that no Attempt of our Enemies against us at Anno 7 Anne, "Home, should divert us from prosecuting the War Abroad with the greatest Vigour; the Hope of which has probated by been one of their principal Motives to so presumptuous

" an Undertaking.

tmof

effec.

imo arm'd

dy of there

ended

Do.

ale of

of and up, the of

dron,

Affair

d her

tr for

nden atio

e thà

ente I

eign, lopel rions, epreless

rion

opel

rage

ty.

n for

am

actiy

with

nek # nee d b. th

म्त्री,

"As I cannot but wish there were not the least Occasion of Distinction among my Subjects, so I must always place my chief Dependance upon those who have given such repeated Proofs of the greatest Warmth and Concern for the Support of the Revolution, the Security of my Person, and of the Protestant Succession."

April the 1st, The Queen came to the House of Peers, and put an End to the Session with a Speech, which see in

CHANDLER's History, Anno 7 Annæ, 1708, P 97.

Among the other Acts passed at this Time was that to make further Provision for electing and summoning sixteen Peers of Scotland, to sit in the House of Peers in the Parliament of Great Britain, and for trying Peers for Offences committed in Scotland, and for the further regulating of Votes in Elections of Members to serve in Parliament.

By this Act it is provided, that a Proclamation shall Manner of electifiue, commanding all the Peers of Scotland to assemble at ting 16 Scots the Place therein appointed, to elect sixteen Peers to sit in Peers, & the House of Peers in Great Britain; which Proclamation shall be published in Edinburgh, and in all the Country Towns in Scotland, twenty sive Days before the Time appointed

for fuch Election.

All the said Peers, before they proceed to Election, in The Electors to the Presence of the Peers assembled, shall take the Oaths take the Oath, of Allegiance and Supremacy, appointed by the 1 Will. and Mary, Sess. 2. cap. 2. make Declaration against Transubstantiation, and take the Oath of Abjuration, viz.

I, A.B. do fincerely promise and swear, That I will be Oath of Allegiathful, and bear true Allegiance to her Majesty Queen ance.

Anne.

So help me God.

I, A. B. do swear, That I do, from my Heart, abhor, of Supremacyadetess, and abjure, as impious and heretical, that damnable Doctrine and Position, that Princes excommunicated, or deprived by the Pope, or any Authority of the See of Rome, may be deposed, or murdered by their Subjects, or any other whatsoever. And I do declare, That no Foreign Prince, Person, Prelate, State, or Potentate, hath, or ought to have, any Jurisdiction, Power, Superiority, Pre-eminence, or Authority, Ecclesiastical or Spiritual, within this Realm.

So help me God.

1708.

I i

And

Anno 7 Annæ,

And shall also make, repeat, and subscribe the Declara-

Declaration against Transubstantiation,

I, A B. do folemnly and fincerely, in the Presence of of God, profess, testify and declare, That I do believe, that in the Sacrament of the Lord's Supper there is not any Transubitantiation of the Elements of Bread and Wine, into the Body and Blood of Christ, at or after the Consecration thereof by any Person whatsoever: And that the Invocation. or Adoration of the Virgin Mary, or any other Saint, and the Sacrifice of the Mass, as they are now used in the Church of Rome, are supersitious and idolatrons : And I do soleme. ly, in the Presence of God, profess, testify, and declare, That I do make this Declaration, and every Part thereof, in the plain and ordinary Sense of the Words read unto me. as they are commonly understood by English Protestants, without any Evafion, Equivocation, or mental Refervation, whattoever; and without any Dispensation already granted me for this Purpose by the Pope, or any other Authority, or Person whatsoever; or without any Hope of any such Dispensation from any Person, or Authority whatsoever; or without thinking that I am, or can be acquitted before God. or Man, or absolved of this Declaration, or any Part thereof, although the Pope, or any other Person, or Persons, or Power whatfoever, should dispense with, or annul the same, or declare that it was null and void from the beginning.

And also take and subscribe the Oath following, wiz.

Abjuration Oath.

I A B. do truly and fincerely acknowledge, profes, teltify, and declare, in my Conscience before God and the World, that our Sovereign Lady Queen Anne is lawful and rightful Queen of this Realm, and of all other her Majesty's Dominions and Countries thereunto belonging: And I do folemnly and fincerely declare, that I do believe in my Conscience, the Person pretended to be Prince of Wales, during the Life of the late King James, and fince his Decease pretending to be, and taking upon himself, the Stile and Title of King of England, by the Name of James III. or of Scotland, by the Name of James VIII. or the Stile and Title of King of Great-Britain, hath not any Right or Title whatloever to the Crown of this Realm, or any other the Dominions thereunto belonging. And I do swear, that I will bear Faith and true Allegiance to her Majesty Queen Anne, and her will defend to the utmost of my Power, a gainst all traiterous Conspiracies, which I shall know to be against her, or any of them: And I do faithfully promie, to the utmost of my Power, to support, maintain, and defend, the Succession of the Crown against him, the said James, and

ara-

of

that

any

into

tion

ion.

and

irch

mr-

are,

eof,

me,

nts,

ion,

ited

ity,

uch 10

ere.

Of

me,

tef-

the

and ty's

do

on-

ing

ore-

itle

of

and

Ti-

the

at I

een

be jle, nd.

and

and all other Persons whatsoever, as the same is, and stands Anno 7 Anne, fettled by an Act, entitled, An Act declaring the Rights and Liberties of the Subject, and fettling the Succession of the Crown to her present Majesty, and the Heirs of her Body being Protestants: And as the same, by one other Act, entitled. An Act for the further Limitation of the Crown. and better fecuring the Rights and Liberties of the Subject, is, and stands settled, and entailed, after the Decease of her Majesty, and for Default of Issue of her Majesty, to the Princess Sophia, Electress and Duchess Dowager of Hanover, and the Heirs of her Body, being Protestants: And all these Things I do plainly and fincerely acknowledge and swear, according to these express Words by me spoken. and according to the plain, and common Sense and Understanding of the same Words, without any Equivocation. mental Evafion, or fecret Refervation whatfoever: And I do make this Recognition, Acknowledgment, Abjuration, Renunciation, and Promise, heartily, willingly, and truly, upon the true Faith of a Christian.

So help me God.

Such Peers as live in Scotland, and are not present at such Peers Electors Meeting, may take the faid Oaths, &c. in any Sheriffs may make Prox-Court in Scotland, which shall be returned by the Sheriffs to 1es. the Peers affembled; and thereby fuch Peers shall be qualified to make a Proxy, or fend a List of the fixteen Peers he votes for.

Peers of Scotland, residing in England, may take the said Oaths, &c. in the Courts of Westminster; which being certified by Writ to the Peers, shall entitle him to make a Proxy, and fend a Lift as aforefaid.

And any Peer, absent in her Majesty's Service, who has taken the said Oaths, &c. besore such Proclamation, such

Peer may make his Proxy, or fend a figued Lift.

Peers of Scotland, who are Peers of England, shall fign their Proxies and Lifts, by the Title of Peerage in Scotland: and no Peer shall be capable of having more than two Proxies at one Time.

The Certificate of the Peers elected shall be returned by the Clerk, Register, &c. into the Court of Chancery, before

the Meeting of the Parliament.

The Peers shall come to such Meetings, but with their ordinary Attendants, and shall not treat or debate of any other Matter there on pain of incurring a Premunire.
All Matters concerning the Election of the faid fixteen Peers, directed by the Articles of Union, and the Act made in Scotland for fettling the Manner of the faid Elec-I i z

1708.

Anno 7 Annæ, tion, and which was confirmed by the Act of Union, 5 4. c. 8 shall be observed, except where it is otherwise pro. vided by this Act.

Where any Person shall die, or be legally disabled to fit, her Majelly shall issue a Proclamation for electing another as

aforefaid.

Where any Peer of Great-Britain shall commit Treason or Felony in Scotland, a Commission shall issue under the Great Seal of Great Britain, constituting Justices to enquire by the Oaths of good and lawful Men of fuch Country of Scotland, as shall be named therein, of all Treasons and Felonies there committed by any Peers of Great Britain; which Inquificion shall be taken in the same manner, as India. ments before Justices of Oyer and Terminer of any County in England, and be proceeded on in the same manner, as where a Peer is indicted for such Off nce in England,

Every Person who shall resuse to take the aforesaid Oath of Abjuration, at the Election of a Member of the House of Commons, or being a Quaker refuse to declare the Effect thereof upon his folemn Affirmation, as directed by the? W. 3 (which Oath &c. the Sheriff, or other Return Officer, at the Request of any Candidate, or other Person present, is required to administer) shall be incapable of giving his Vote at the Election of a Member of the House of Commons.

The Parliament was prorogued to the 30th of April, but dissolved the 15th; and the 22d a Proclamation was issued for calling another tested the 26th, and returnable July the And, May the 10th, pursuant to the Act for rendering the Union more complete, a Privy Council was conflituted for the whole United Kingdom, confishing of the follow-

A new Parliament called;

And a new Pri- ing Perfons, viz. vy-Council. The Lord Archbishop of Canterbury.

William Lord Cowper, Lord Chancellor of Great Britain, Sidney Earl of Godolphin, Lord High Treasurer. The Earl of Pembroke, Lord President.

John Duke of Newcafile, Lord Privy-Seal. William Duke of Devonshire, Lord Steward.

James Duke of Ormond.

Henry Marquis of Kent, Lord Chamberlain.

Fames Earl of Derby. Thomas Earl of Stamford.

Charles Earl of Sunderland, Principal Secretary of State.

Charles Bodvile Erl of Radnor.

Charles Earl of Berkeley. Francis Earl of Bradford.

Hugh Earl of Cholmondeley.

Henry Lord Bishop of London.

William

William Lord Dartmouth.

Henry Boyle. Eiq; Principal Secretary of State.

Thomas Coke, Efq: Vice-Chamberlain,

Sir John Trever, Mafter of the Rolls!

Sir Thomas Trevor, Lord Chief Justice.

Sir Charles Hedges.

4.

.01

fit,

as

ion

the

lire of

0-

ich

ia.

nty

28

ath

ule

ea

7

er, 15

ote

out

ed

he

ng

W-

n,

M

James Vernon, Efq;

John Howe Esq;

Thomas Erle, Eiq;

This Summer was, Abroad, diftinguished by the Victory Exploits Abroad. brained at Oudenarde, which, tho' both glorious and adantageous to the Allies, was not fo decifive as either that of

Blenbeim or Ramellies, the French making good their Rereat, and repelling all the Attempts that were made to put

hem into Confusion.

The Siege of Life, one of the strongest Places in the World, was next undertaken by the Confederate Generals, n the Sight of an Army superior to their own; which had posted themselves so advantageously, as to cut off all Communication between the Besiegers and Brussels; whereby Ammunition of all Sorts began to fail; and the Confequenes might have been greatly calamitous, if General Webb ad not, with incredible Conduct and Bravery, both covered he grand Convoy committed to his Charge, and with a Party f but 6000, defeated an Army of between 23, and 24.000, which had been detached to make fure of a Supply which was f fuch immediate Importance to the Confederates.

But the Merit of this gallant Action was, by Mr. Cardonnel, he Duke of Marlbo ough's Secretary, ascribed solely to Lieuenant General Cadogan, who did not come up till it was en-irely over, and the Enemy retreating in Disorder; without he least Mention of Mr. Webb, who thereupon quitted the Army in Disgust, and very frankly set forth the Injury which ad been done him, both to the Queen and the whole Na-

ion.

In this Interval the Elector of Bavaria invested Bruffels, but was kept at Bay by the Governor and Garrison, till the Consederates passed the Scheld to their Relief: Upon which eabandoned the Siege in Confusion, leaving his Artillery and wounded Men behind him.

The Town of Lifle had already capitulated, and now the Citadel did the same. And the Reduction of Ghent, which ad been before betrayed to the French, finished the Campaign

n that Side.

In Spain the Duke of Orleans reduced Tortofa, Denin and theant: But to countervail these Advantages, Sir John eake conquered Sardinia, and General Stanhope Minorca:

Anno 7 Annæ, 1703.

1708.

Anno 7 Annæ, And in the West Indies Commodore Wager had an Engine ment with the Spanish Galleons, in which the Admiral ble up, another Galleon was run ashore, and the Rear-Admin was taken; being mounted with 54 Brafs-Guns, and he Lading of an immente Value.

Dath of Prince George.

Prince George of Denmark dying Ochober the 28th.

The Second Parliament of GREAT BRITAIN, or First summoned by Writ.

AS opened by Commiffion, November the 16th, and the Commons having chose their Speaker, the Lord Chancellor made a Speech, the 18th, to both Houses; which fee in CHANDLER's History, Ann Anna, 1708. Page 99.

Lords Address of Condolance, &c.

Their Lordships, on the 20th, drew up an Address d Condolance on the Death of the Prince, which was prefent ed in a private Manner, as being most acceptable to be

Majesty, by the Marquis of Dorchester.

They faid, they could not forbear condoling with her Ma jefty upon the great Loss fustain'd in the Person of the Prince, whose eminent Virtues must render his Memory ever dearn them and the whole Kingdom : But they begged the would moderate her Grief, and take care of her Health, upu which the Hopes of her People, and the Safety of Europe, so much depended.

They congratulated her Majesty on the Success of the Campaign, and promised her their Assistance in prosecuting the War, being convinced, they faid, that no Peace could be fafe or honourable, till the whole Monarchy of Spin was restored to the House of Austria; and, as her own & jects made fuch extraordinary Efforts, they defired the would press her Allies who were more nearly concerned, to fire

an equal Vigour.

That they should do every thing on their Parts towards perfecting the Union; and that they would support her Ma jesty and the Protestant Succession, against all Pretenders, and

all her Enemies.

Address of both Houses on the reducing of Ghent.

Before the Parliament adjourned for the Holidays, both Houses agreed on an Address to the Queen, which was prefented by the Lord Chancellor, and the Speaker of the House of Commons. In this Address they congratulate in Success in the Reduction of Ghent, The last great Effond this glorious Year, which would (they faid) be ever famou in History, as well for the entire Disappointment of all the Attempts and Hopes of her Enemies, as for the many wo he unusual Length of the Campaign, the Variety of Events ind the Difficulty and Importance of the Actions, had given many Opportunities to her Majesty's General, the Duke of Marlborough, to shew his consummate Ability, and all the great Qualities necessary for so high a Trust.

The House of Peers on the 12th of January, having sum-Debate on the moned their Members to attend, took into Consideration the State of the Nation in relation to the late intended Invasion tion.

of Scotland; and the Lord Haversham opened the Debate

with the following Speech:

My Lords,

gage.

miral

d her

AIN,

16th,

eaker,

th, to

lnno 1

els of

refent.

to ber

r Mai

rince,

ear to

would

upon uroje,

of the

cuting

could

Spain Sub-

would

thew .

wards

r Ma

s, and

both

s pre

of the

te her

fort d

amou

all the

worderful 'I have a greater Respect for your Lordships than to Lord Haversteep you in any Expectation; there is nothing I can say, I sham.

m sure, can in the least deserve it.

My Lords,

When the Campaign was at an End, when a Land-Tax ay on your Table, when the due Respect had been paid to hat Sorrow, in which we all bear a Part, when the Session of Parliament was so greatly advanced, and a long Recess so hear at Hand, I thought it might be a proper Time to put your Lordships in mind of the late intended Invasion; and the rather, because an Enquiry into this seemed to me to be what the Nation expected, and what I have observed, even hose who have differed in their Thoughts about it, yet unanimously desired; but above all, because it is a Matter, in which not only our Welfare and Happiness, but our very being itself, the Security of the Nation, and Sasety of her said to highly concerned.

'I did endeavour to prove the first of these to your Lordhips, when I made you this Motion, by Reasons taken from the slourishing of your Trade, the support of your Credit, the nature of your Victories, and the quieting of Men's Minds t Home; and shall now, with your Lordship's Leave, say a ew Words to the other Part, and shew your Lordships how

much this Enquiry concerns us all in point of Safety.

Some perhaps may think, that after such wonderful Suceffes Abroad, as we have had the last Year, after the French
King has lost Liste, and been forced to abandon Ghent and
Bruges; to speak to your Lordships of any Dangers at Home,
or to have the least Apprehension from such a bassled Enemy,
were to expose the Weakness of a Man's own Judgment;
out I shall endervour to shew your Lordships how dangerous
Mistake this is, from Example, Reason and Authority, the
hree best Arguments I know to prove any Truth.

My

Anno 7 Annæ, 1708-9My Lords,

Were not Hochstet and Ramellies as glorious Victorie. and as great Mortifications to the French King, as our taking of Life, or reducing of Ghent? and yet after fuch entire Vin tories, such repeated Defeats, had not this haughty Neighbour of ours, the Presumption, the last Year, to attempt the setting a Pretender upon her Majesty's Throne? And can we reason ably promite ourselves any Security whenever he is in Condition to give us the least Disturbance? And is he no in a Condition? Is he not as near us this Year as he wasthe last, notwithstanding all our Conquests? That's an Advan tage our Allies only have by them, to have their Enemies a greater distance. Has he not as many Ships, and as many Friends too, except one, as I mentioned to your Lordships! Nay, my Lords, has he not as great Encouragement to n. new his Attempt as he had to undertake it, as I shall prefently shew your Lordships; from whence then does our great Security arise? Besides, my Lords, what is yet further, every Body is convinced by the inconsiderable Force, the small Number of Ships and Troops, the French King employed in the late Attempt upon us the last Year, that his chief Deper dance was upon the Encouragement and Promises of Affile ance he had from hence; and yet, notwithstanding all or Enquiries, is it not as great a Mystery to this Day as it was who the Persons amongst us are, who were concerned in this black and unnatural Treason?

"Tis true, my Lords, several Persons of great Qualing and Interest have been taken up upon Suspicion, brought from their own Homes and Country, whilst others there have had the Opportunity of supplanting them in their law rest there: 'Tis not for me to say, whether this proceeds from Ill-will to some, or Favour to others; but, has any thing been proved against them? Does not the Bail that has been given for them, and their sitting in this House, convince every body of their Innocence? So that this way of proceeding has rather proved vexatious to the Subject, that any real Security to the Government, and I hope will make us for the future set a greater Value upon our Habeas Compact, which was the Right of every Subject before by Com-

mon Law.

'Nor has the Characters that have been made of Person to be suspected had any better effect. There are two Ishal mention to your Lordships, and I think greater Mistakes that both of them can scarce be put into Words; the first in That Men of arbitrary Principles are the Persons who ought to be suspected; this Argument has been very much labouted, and great Pains has been taken to persuade the World

from Men's Practices in former Reigns, that they are fill Anno 7 Anna, of arbitrary Principles, and from thence it is inferred they ought to be suspected. I shall not trouble your Lordships, or myself, at present, to shew the Weakness of this Argument; I will take it as they that have use of it would have it, for a strong and undeniable Consequence, and then I ask. What, my Lords, is the Nation to suspect any, who are at the Head of your Ministry; of giving this Encouragement to your Enemies? For I will be bold to fay in this Place, if this be a good Argument, it is as strong against some who are at the Head of your Ministry, as against any Man I know of who is out of it.

1708-9.

'There is another Character of suspicious Persons, which I cannot but take notice of, because I take it to be very fatal to the Freedom of Parliament, for it is impossible for any Man to take notice, either in Parliament, or to the Queen herself, of any wrong Measures, or false Steps in the Management of public Affairs, without fo far reflecting on the Ministry; and if this is to be interpreted as an artful Method of lessening her Majesty's just Esteem of her Ministers; and those who do so are to be marked as dangerous to the Safety of her Majesty's Person, and the present Establishment, I am afraid her Majesty, for the future, may have several Things concealed from her, which might be for her Service to know, and one of the great Ends and Uses of Parliaments, the redreffing of Grievances, and keeping great Men in Awe, will be quickly laid afide. But, my Lords, we have a very vifible Instance, that this is a great Mistake; for do we not see those Lords, who the last Year espoused the Case and Complaint of the Merchants in Parliament, now advanced to the greatest Places of Trust and Power? So that these two Methods have rather shewed us, who ought not, than who are to be sufpected.

My Lords,

tories,

aking

e Vici

hbour

etting

eafon

ina

e not

as the

dvan.

ies at

many

hips!

to repre-

great

every

fmall

yed in

epen-Affit-

ll our

Was,

n this

vality

ought

ereby

Inte eeded

s any

l that

c, con-

vay of

, that

make

Corpus

Com

erfon I shall

s than

rft is

ought

abour-

World

from

I shall now take Leave to fay one Word to the positive Part; and if we would apply an Observation of the Schools to the Case in hand, I believe it would set this Matter in the truest Light. They tell us there is great Difference to be made between a Division and a Distinction: Every Division is a Distinction, but every Distinction is not a Division; the Soul and the Body are distinct, but they are not divided, for that would be a State of Death; it is so in this Case, the Papilt, Jacobite, and Nonjuror, are a Party of Men divided from the rest of the Nation; they want that forma informans, as they call it, that vital Spirit of Love and Loyalty that animates every good Subject: But as for others, 1708 9. Kk however

Anno 7 Annæ, however they may be distinguished, and differ among themfelves in their Notions relating either to ecclefiaftical or civil Policy, yet they feem all to have the same Regard and Concern for the Honour and Safety of her Majesty and Govern. ment. I would not be misunderstood, as if I did not think fome of all Persuasions may be faulty : I know, that even a. mong the Apostles themselves, he that bore the Bag proved the Traytor: My Meaning only is, that those who have taken the Test to the Government, may at least pretend to an equal Degree of your Charity with those who never yet owned it; and it is these Persons who never swore to the Government, that her Majesty directly points at in her last Speech to her last Parliament; for after she had been pleased to say, " It is certain we must be all inexcusable, if we do not take warning from this Attempt, to complete what may be necessary for our Security at Home, and the discouraging the like for the future; to which, by God's Bleffing, there shall be no. thing wanting on my Part." In the following Paragraph fhe is pleased to add, " I must recommend to you, at your Return into your feveral Counties, to use your utmost Care and Diligence in putting the Laws in Execution against Papills. and all others disaffected to my Government, and in making them pay towards the public Taxes to the full of what the Law requires from them: Nothing being more reasonable than that they, who by their Principles and Practices encourage (if not actually foment) such Disturbances, should donbly contribute to the Charge of quieting them, and fecuring the Kingdom's Peace, and should know themselves, on all fuch Occasions, to be responsible for the many Inconveniences that may enfue:" Which two Paragraphs, will, I hop, justify what I have taken Notice of to your Lordships.

My Lords,

'I do not forget the Obligation I am under to a noble Lord, and therefore shall now shew your Lordships, that notwithstanding the French King sailed in his late Attempt upon us, yet he has more Encouragement to renew it, than he had at first to undertake it: And, my Lords, I think a great deal that I have faid to your Lordships proves it. Is it not a great Encouragement to him, to fee, notwithstanding to many Friends that he has amongst us, all the Methods that we have hitherto taken, have fignified fo little to discover any of them? And that those Methods have not been taken, that might perhaps have fignified more towards a Discovery, and have been made use of at other Times; I mean Promile both of Pardon and Reward. Does he not fee how early he can shake the main Pillar that supports all our Commerce,

I mean the Bank? Was it not in danger of breaking? And Anno 7 Anna, has it recovered the Blow to this Day that he gave it? For, my Lords, if Men cannot be Masters of their own Money, which they trust with any body, upon no other Reason, but that they may command it again in any Case of Necessity. without being looked upon as suspected Persons, I believe Men will be so wise as to secure both their Money and themselves too, from any such Danger. There is another Encouragement, which he has, my Lords, and that is, the weak and defenceless Condition of Scotland, the Deficiency of Force, and ill State of your Garrisons there, at the Time of the Invasion, notwithstanding the certain Accounts and Knowledge we had of it. What, my Lords, will no Alarm awaken us? Will the Scales never fall off from our Eyes? Must some Men's mighty Services prevent our looking into others great Miscarriages? And must this poor Nation be eternally fawn afunder by the Struggles of contending Parties? My Lords, I hope it is not thought that I have been thus urgent with your Lordships from any Fears of personal Danger: I am content to take my Lot with others as it falls, whatever it be; but I am afraid lest her Majesty should be dethroned whilst she lives, and that the Destruction of Popery or Slavery, whilst we are speaking Peace to ourselves, should suddenly, like a Flood, break in upon

My Lords,

m-

ivil

on-

ern-

ink

n a-

ved

ken

qual

it:

ent,

her

t is

arn-

Tary

for

no-

aph

our

and

ifts,

ing

the

able -1100 lou-

ing

all

eni-

ope,

oble

not-

pon had

reat

not

g 60

that

any that

and piles

afily

erce,

nean

'If your Lordships have any Intention of looking into this Matter, I shall make your Lordships a Motion, which perhaps may give us some Light; it is indeed a complex One, and rather a Schedule of Papers; it is, that her Majesty will please to order, that there may be laid before this House, at what time her Majesty received the first Account of the intended Invasion: What Orders were thereupon issued into Scotland, with relation either to Forces or Garrisons? What was the Number of regular Troops and Forces there, at the Time of this Intelligence? What was the State of the Garrisons there at that Time? What Augmentation was made, or Forces fent thither, from the Time of the Intelligence, to the Time of the Invasion? What Orders have been given with relation to the Garrisons, and when, both before and fince the Invasion, from the Time of the first Intelligence?

Several other Peers spoke to the same Purpose; whereupon the House appointed a Committee, to enquire into the appointed. State of the Nation, in relation to the intended Invasion; and ordered an Address to be presented to her Majesty, to defire that the Papers, concerning this Affair, might be laid Kk2

1708-9.

Anno 7 Anne, before them : Which her Majesty was pleased to direct at-1708-9.

cordingly.

On the 25th of February, the Lord Haversham open'd, in the House of Lords, the Account of the Scotch Invasion, in the following Speech.

My Lords,

Lord Haversham opens the Account of the Scotch Invation.

' The Temper of this House, with relation to your En. quiry into the intended Invasion, since your Address to her Majesty to have the Papers laid before you, and fince they have been upon your Table, is so very visible, I need not take notice of it, but ought rather to alk Forgiveness for myfelf, that I should dare so much as mention that Matter once more to your Lordships; nor should I do it, were it not from an absolute Necessity and Justice, which I think is due to myfelf, and those Lords who did me the Honour to second the Motion I made for addressing her Majesty for those Papers; for to me it feems too much like Fear or Guilt, to fit down tamely under any Reflection a Man has in his Power to wipe off, and there are some which we, perhaps, hereafter may be reproached with: One is, that these Lords who made you this Motion, never fo much as looked into the Papers they called for, or have thought on, or mentioned that Matter fince; perhaps they will fay so too, that they never intended it should come to any thing; that it was only a Cover to some Design they had under it; may, I do not know but they may go so far as to say, that, under hand, they were trying how an Act of Grace would relih; Should fuch a Thing be offered, I know myfelf so innocent, as, in our present Circumstances, I should not give my Confent to it, for I shall always think, that, when Horses are skittish, vicious, and headstrong, let who will be upon their Back, it is fit they should never be without a good strong Curb in their Mouths: And, as to these Papers, my Lords, I have looked into them, and those who have done fo, cannot, in my Opinion, but think of them : But that your Lordships may not have my Word for this, I wil, with your Lordship's Leave, take notice of some Particulars that are in them; and that you may be certain of the Truth of what I observe, I beg your Clerk may read, for Vouchers, the Papers themselves, as they shall be called for.

It will not, I presume, be denied me, that, upon the 23d of February, Mr. Boyle received certain Intelligence, that the intended Armament at Dunkirk was designed for Scotlans; there had been several Advices before of great Preparations making, and, by the great Quantity of Fire Arms, it was

judged to be for some Land Design. The States were appre-Anno 7 Anno, henive, and acquainted her Majesty, by their Minister, 1708-9. with it; and Scotland had been, in several Intelligences, named, but I do not find there was a certain Account till

that of the 23d of February, to Mr. Boyle.

ac-

d, in

, in

En-

her

they

not

for

atter

re it

k is

ir to

hole

, to

wer

ere-

ords

into

ion-

that

it it

nay,

nder

if:

ent,

Con-

are

pon

ood

my

one

that

vill,

icu-

the

for

licd

the

that

ns;

ons

Was

The Queen, in her Letter of the 25th of February, to the Council of Scotland, thinks it necessary to acquaint them with it; and, that she does expect they should do their utmost for the Protection of her Subjects, and Preservation of the Public Peace; that nothing on her Part should be wanting; that she had given Orders, that some of her Troops in Flanders should be ready to embark, in case the Embarkation at Dunkirk should go on; and that her Troops in England and Ireland were so disposed as to give what Assistance might be necessary, and, in the mean time, authorizes and empowers them, the Privy-Council, to give such Orders as were proper to put her Forces, Forts and Garrisons there, in the best Order.

'This then being allowed, the first Question is, What Number of Forces, effective, regular Troops, I mean, were in Scotland at this Time, that is, the 23d or 25th of February, 1708? I cannot but observe to your Lordships, that there has been a great deal of Care taken to conceal this from us, altho' this very Account was particularly asked for by your Address; yet, in all that great Bundle, there is not one Paper from whence we can learn the Number: I was thereforce forced to get the best Light and Intelligence I could elsewhere; and have very good Authority for what I am going to say, and do affirm to your Lordships, that the regular Forces in Scotland, upon the 25th of February, 1703, were not above 1500 Men. If I am mistaken, I hope some Lord here will set me right, and take upon him to say what the real Number was at that Time.

And, fince there were but 1500 Men, it is certain that was not a Number or Strength, that could be thought by any Man sufficient to secure and protect the Kingdom against the Invasion that threatened it; and the Ferment that was then in the Nation was such, that I do not find they durst so much as trust their Militia with their own Desence. We are therefore, in the next place, to consider what additional Strength or Argumentation this Handful of Men had, or what Assistance, either from the Forces from Osend, or those

from Ireland, or English Troops from hence.

As to Augmentations or Additions, I find there was little or nothing done as to that Part: The Parliament indeed had, on the 20th of December, 1707, raifed the Establishment of the Forces in Scotland from 2834 to 5932; but, it appears

Anno 7 Annæ, appears by a Letter from the Earl of Leven to the Earl of Marr, of the 7th of March, that little Notice had as yet been taken of what the Parliament had done; for, in that Letter to the Earl of Marr, he intreats him again to mind the Establishment, and let him know if he shall give Encouragement to any who should be willing to take Arms to join them; and fays further, he hopes, at least, that fo much of the Levy-Money as is due fince the 24th of D. cember. will be given now; for that would buy fome Horses, and levy some Men : So that by this Letter it appears there was no Money given to levy Men, or increase the Forces in Scotland, tho' there were 3600 Men wanting at that Time. and had been fo ever fince the Parliament had voted the Establishment in December, and, tho' our Danger, at that Time, from the Want of them was so very great and evident; which feems very aftonishing. Nor does it appear that any Directions, or Money for this or any other Ser. vice, till the Invafion was over, was ordered here till the 12th of March; and then, indeed, on the 13th, the Earl of Marr writes from hence to the Earl of Leven, That my Lord Treasurer had ordered the People of the Customs and Excise, to answer the Earl of Leven with Money for Provisions, and other necessary Charges; and further fays, That my Lord Marlborough told him that very Morning, which was the 13th, that the Scotch Establishment would be ended that Day; he knows not how they have made it, or if they have altered any thing that we had concerted with St. Tohn or if any thing be omitted; but we hope they have not.

It is very true, her Majesty, in her second Letter of the Sth of March to the Council of Scotland, recommends to them, to give present Directions to put her Forts, Garrisons, and Magazines there, in a good Posture of Defence, and say, That what shall be expended towards those Ends by their Warrants shall be repaid, for which she has already gires Orders: What those Orders were, or to whom given, an not to be found among the Papers; but it is very evident, that there was no Order for one Farthing of Money, to anfwer either the Orders of the Council, or the Earl of Leven's necessary Charges, out of any Branch of the Revenue, or otherwise; for in a Letter of the Earl of Leven to the Earlo Marr, of the 13th of March, he has these Words, which will likewife shew the Condition of the Nation at that Time · My Lord, fays he, I leave it to your Lordship to confider my Circumstances, here I am, not one Farthing of Money to provide Provision, or for Contingencies, or Intelligence, none of the Commissions yet sent down, sew Troops, and those almost naked; it vexes me sadly to think I must

arl of

as yet

n that

mind

En-

Arms

hat fo

f De-

orfes,

there

orces

Time,

ed the

t that

evi.

ppear Ser.

ll the Earl

it my

s and Pro-

That

which

they

John,

fthe

hem,

, and

fays,

their given

, are

dent,

o an-

ven's

or o-

r of

hich

ime: fider

oney

nce,

and muft

etire

retire towards Berwick, if the French land on this fide the Anno 7 Annes Forth? And that you may not have his Lordship's fingle Word for it, the Lord Advocate confirms very much the Truth of this, in his Letter of the 11th of March to the Earl of Marr; for after he had faid that, he was ordered to lay before her Majesty the inclosed Information for the Castle of Edinburgh, and a particular Account of what it wants to put it in a Case of Defence; and also the Castles of Sterling, Dumbarton, and Blackness, to shew their present Condition, and Want they are in, and that he had formerly fent a Memorial of Mr. Slezer's for a Train of Artillery; all which he hopes will be confidered:' He adds, 'I believe (fays he) there was never a Country more destitute and desenceless than we are, nor have we so much as a Treasury, or any Money for incident Changes; fo that I must again, by the Council's Order, lay these Things before your Lordship, and that at least some Order may be given, whereby necessary Expences may be defrayed. And the Earl of Marr's Letter of the 13th from hence, is the first Account we have of any Money that was ordered for Scotland: By all which it plainly appears, that, notwithstanding the Orders the Queen mentions in her Letter of the 8th of March, the Council had not a Shilling for necessary Expences on the 11th, nay, not so much as one Penny ordered till the 13th; and as to the Establishment, notwithstanding all the pressing Instances, that was not fettled till after the Invasion, as appears by the Earl of Marr's Letters of the 12th and 13th of March.

'This, my Lord, is the true State, as appears from the Papers themselves given in, relating to the Force of that, I had almost said deserted, but I may say desenceles Nation; few Men, and those almost naked, 3600 Men wanting of the Establishment voted by Parliament for the Year 1707-8, near three Months before; no Levy-Money, no Establishment settled, no Commissions sent down, not a Shilling ordered by the Ministry out of any Branch of the Revenue, or otherwise, to the Privy-Council or Earl of Leven for necesfary Expences, or to buy Provision, or for Contingences or In-

telligence, and all this in a Time of the utmost Danger. 'In the next place I shall shew your Lordships, when Scotland was in this defenceless Condition, what Assistance they had from Oftend, England and Ireland. As to the Transports that were to come from Oftend, tho' all the Dispatch was made that could be made, they did not arrive at Tynmouth Bar, till ten Days after the Enemy were seen upon the Scotch Coast, so that the Dispute, if there had been any, would have been over, and the Enemy in all human probability, would have been Masters both of Edinburgh, the

Anno 7 Annæ Caftle, and all that was in it, before they could come un in their Affiltance. And the very Order to (Rear-Admiral Baker is so extraordinary, a Man cannot but take notice of it. for after that he is required and directed to make the bet of his Way to Tynmouth-Bar, with her Majesty's Ships under his Command, and the Transport-Ships with Troops which he brought with him from Oftend, &c. There is a further Order in these Words, but in regard there are several diff. mounted Troopers on board the Transports, you are to feed a Vessel with them to Harwich, if you can conveniently, their Horses being now in Effex; so that instead of taking the Horses to Tynmouth, the dismounted Troopers are fifth be fent to Harwich to their Horses, and from thence to pro ceed to Scotland, which, one would think, were a very round-about Way.

> And as to our Troops from hence which were to affel them, the several Regiments of Horse, Dragoons and Foot, had not their Orders to hold themselves in a Readiness in march till the 11th of March. The next Day Orders were given for them to augment, and on the 14th they were on dered to march northward, which was certainly too longs Delay, confidering what a March it is from hence to Edin burgh; yet this was all the Readinese they were in to affil

them.

But there is one Thing which is most amazing, and must again desire, if I am wrong in fact, that some Lord

here, who I am fure can, will fet me right.

'The Queen, as I shewed to your Lordships in her Letter of the 8th of March, which your Clerk just now read, toll the Council of Scotland, our Troops from Ireland, which w mentioned in our last, are ready to embark in Transport Ships provided in those Places with all Necessaries for that Service: And yet it does appear plainly, that there werem Transports provided at that Time here; nor were any Transport-Ships ordered in Ireland; nay, the very Orders to provide Transports were not given by my Lord Sunderland ill the 12th of March here; nor by my Lord Lieutenant of Ireland, for the Troops to be in a Readiness to be transported till the 13th, and then my Lord Sunderland fends at Order to the Commissioners of Transports, telling them, That it is her Majesty's Pleasure that they forthwith the up Shipping for the Transportation of fix hundred Horte, that are to embark at the White-House between Carrickfugu and Belfast: And it is left, says he, to your Discretion w hire thefe Ships either at Whitehaven, Liverpool, or Chefin, as you can do it with most Expedition and Conveniency. And upon the 13th, his Lordship sends another Letter, at quainting up to

mirall

tice of

re beit

under

Which

urther

al dif

o fend

taking first to

o pro-

affit

Foot,

efs to

s Were

re or.

ong a

Edin-

o affit

and I

Lord

Letter

I, told

ch we

fport-

r that

ere no

Cranf-

o pro-

nd till

int of

tranf-

ds an

them,

take

Torie,

fergu

ion to

befter,

ency.

r, ac-

nting

quainting them, that they are to provide aboard those Ships, Anno 7 Anna, Hay and Oats, sufficient to serve fix hundred Horse for a Fortnight, and as many Water Casks as may be necessary to carry Water; Particulars that were it feems forgot in the first Orders: And in an Extract of the Earl of Pembroke's Letter to the Lords Justices of Ireland, of the 13th, he tells them, "I did not in the least doubt but that your Lordships will iffue proper Orders for one Regiment of Horse, and two of Dragoons, to embark whenever there shall be Occasion for them: And it is her Majesty's Opinion, that the Regiment under the Command of Lieutenant-General Langston, Major-General Echlyn, and Lord Tunbridge, should be on this Service; and I am of Opinion that it will be for the Service of the Queen, to have these three Regiments move with all convenient Speed, and take their Quarters in and about Belfast and Carrickfergus, that they may be in a Readiness to embark; I defire your Lordships to give Directions to the proper Officers to provide and get ready Hay, Oats and Water, for at least a Fortnight."

And here, if we consider that these Letters were dated the 12th and 13th of March from hence, that they were to go to the Commissioners of Transports here, and to the Lords Justices in Ireland, that after these Transports were to be agreed for, and Hay, Oats and Water to be provided, and the three Regiments ordered to march, what Time this would take up, it seems very evident, that her Majesty was not truly acquainted with the Danger she was in; that she thought these Things were in a Readiness which were not; and that the Orders she had given had not been observed, as she concluded they were; and, in the last place, that these three

Regiments must arrive in Scotland very late.

But there is one thing more so very new, and without Precedent, that it cannot but be very astonishing; which is that in the Earl of Leven's Instructions of the 4th of March, in that Part where he is ordered to Ireland for Assistance, there is a Blank left as to the Person to whom he is to write; the Words are these, 'You are, upon the first Appearance of any Squadron of French Ships upon the Coast, to send to Ireland to advertise him thereof, who has Orders to send Troops to your Assistance;' and yet, as was just now proved, both from my Lord Sunderlana's Letter to the Commissioners of Transports, and from my Lord Lieutenant's to the Lords Justices, there were not so much as Orders given for any Transports here till the 12th, nor any ever in Ireland, nor were the three Regiments directed to move, in order to embarking, till the 13th.

I confeis, when I read this, I thought it was a Mistake 1708-9.

Anno 7 Anna, of the Transcriber, till I saw these Words in the Earl of Leven's own Letter, of the 7th of March, to the Earlof Marr. I defire you, fays the Earl of Leven, to fend down the Name of the Person I am to write to in Ireland, if there be Occasion; and must still entreat your Lordship that Orden be fent for fome Horse and Dragoons to embark.' And again, in his Letter of the 13th, where he has these Work to the Earl of Marr, he repeats the fame thing; Pray en. deavour to get Orders fent straight to Ireland for the Officen there to emberk, for you know I have no Person's Namen whom I should write' This convinces me beyond what any Man can fay, that his Lordship did not know to whom to write, for fure his Lordship would not repeatedly affirm what was not Fact; and whoever confiders that there were no On ders lodged any where for any Person from Ireland, unon Advice from the Earl of Leven of the Appearance of the Enemy, to follow his Direction, and haften to his Affiftance: nor any Orders at all for Transports there; nor any Direction tion here for Transports till the 12th, must, I think, becomvinced that this Blank in the Instructions did not happen by Chance, but was a premeditated and defigned Omission.

I would not forget any Care that was taken, and there fore must take Notice, that on the 27th of February then were an hundred Barrels of Powder ordered to be fent from Beravick to Edinburgh; but the Earl of Leven was not with to about it till the 2d of March, which was four Days delay. And the Order itself was so very prepotterous, I had almost faid ridiculous, (much like t'st of Baker's) that it had fulls well been omitted; for, instead of ordering the Store keeper of Berwick immediately to carry a hundred Barrels of Powder to Edinburgh, they fend an Order to one Mr. James Rom, Deputy Store keeper of Edinburgh, to get Carts and gowill them to Beravick, and take three hundred Barrels of Powder and bring it to Edinburgh And Mr. Grieue, Store keeper of Berwick to the Board of the Ordnance, writes a Lette, dated Mar. b the 10th, 1707-3, hither, that Robb was come to Berwick, and the Carts would be there that Night. And I appeal to a Lord, who cannot but know, whether the Pow der came to Edinburgh before the Danger was past, and the French off our Coatt? And whoever will reflect, that the Earl of Leven's Letter, dated here the 2d of March, was to go to Edinburgh; that then at Edinburgh Carriages are to a taken up for the Powder, then they are to go to Berwick, and from Beravick they are to return again to Edinburgh, will ful it could hardly be there fooner.

The next Thing I shall take notice of to your Lordship, is the State of the Garrisons. The Parliament had given the 20th of December, the Sum of 13098 1. 17 s. 2 d. for Anno 7 Anno 8 the Garrisons of North Britain for the Year 1708. But I 1708-9. cannot but think your Lordships will be greatly surprized, when you find in what a wretched Condition they were. I will give your Lordships but an Instance or two, the rest are much in the same State.

Sterling-Caftle.

'This is a very confiderable Post, a Place of great Importance; and yet what an Account is there of the Arms and Ammunition in that Place?

One Barrel of Powder.

arl d

arl of

there

orden.

And

Vords

y en-

fficers

me to

t any

m to

What

0 Or

upon

of the

ance ;

Direc-

e con-

en by

there.

there

from

WII

lelay.

Imot

ull as

eeper

Pow-

Robb.

with

eeper

etter,

come

And

Pow-

d the

t the

vas to

to be

and

I find

thips,

iven,

550 Firelocks, of which, about a Hundred for Service, and some of that Hundred want Ram Rods, and some Nails, all the rest unserviceable.

78 Muskets, which may be for Service, when furnished with Ram-Rods; some Nails, and some shattered in the Stocks.

380 Muskets, with broken Stocks and Locks, and many wanting Locks, and all unserviceable.

150 Bundles of Match, all damnified with lying in Rain. 300 Bayonets, with most of them broken and spoiled, altogether unserviceable.

300 Cartridge Boxes, all broken and unserviceable.

200 Pikes, damnified by long lying.

40 Cannon-Balls, 18 Pounders.

70 Cannon-Balls, 12 Pounders.

1200 Balls, 9 Pounders. 3400 Four Pounders.

20 Small Bomb-shells without Mortars.

1200 Hand Grenado Shells. 50 Stands, back and breaft.

Ordnance Stores in Blackness Castle.

'Two Barrels of Corn-Powder, one Hundred each.

A Hundred Yards of Match.

4 Hand-Spikes.

59 Musket Barrels, repairable.

7 Scimitar Blades useless.

1000 Pound Musket Bullets.

3 Ladles, one serviceable, the others useless.

2 Cannon, 3 Pounders.

1 Train Carriage, unserviceable.

2 Minions.

3 Faulcons on Ship-Carriages, unserviceable.

77 Balls for Minion.

25 Balls for 3 Pounders.

149 Hand Grenado Shells.

L 1 2

Dum

Anno 7 Annæ, 1708-9. Dumbarton-Caftle.

Flints; all the Lodgings in a ruinous Condition; no Coals in the Garrison, nor any other Provision: The Firelocks being long fince they were gotten, are very ill fixed.

Edinburgh, March 9, 1707-8.

The abovementioned is the true Condition of the Caffle of Dumbarton at present.

I need not, my Lords, I think, make any Observations upon the Castles, after your Lordships have seen the wretched State of them; and therefore, in the last place, shall only take notice to your Lordship, that, after the Invasion was over, there were Estimates made, what it would cost to put the Fortistications of Scotland in good Repair. The total, as appears by your Schedule, amounts to 23156 l. of which there could be but 3000 l. laid out this Year; and yet there has been but poor 1500 l. expended upon that Service this Year, as appears by your Paper.

overy plain before your Lordships; I could wish I had not said one Word of Truth in what I have said to you; but the Vouchers shew it to be so, and if all this be true, it is very strange, a very surprizing, and a very astonishing Truth.

I shall not move any thing to your Lordships farther in this Matter, I believe there has been enough now said, to justify those Lords for moving this Enquiry, and shall add but this Word, that if there be no greater Care taken for the sature, than there was at this time of such imminent Danger, it will be the greatest Miracle in the World, if, without a Miracle, the Pretender be not placed upon that Throne.

This is the Substance of what was observed by the Lord Hawersham, tho' there happened some Interlocutories between him and another Lord: And the Observations were made upon the Papers as they were read: The Duke of Buckingham and several others spoke to the same Effect: Upon which it was ordered, that that important Affair should be considered the Tuesday following in a sull House. But all ended in a joint Address of both Houses, that much and effectual Care had been taken by those employed by her Majesty, at the Time of the intended Invasion, to disappoint her Majesty's Enemin both at Home and Abroad.

The Talk of a Treaty being about this Time become go neral, the Lord Somers moved in the House of Peers, that

Duke of Buck-ingham.

A joint Address of both Houses.

Lord Somers's Motion for obliging the French King to acknowledge the Queen's Title.

an Address be presented to her Majesty, that she would be Anno & Anna, pleased to take Care, at the Conclusion of the War, that the french King might be obliged to own her Majesty's Title, and the Protestant Succession, and that the Pretender might be removed out of the French Dominions, which was una simously approved. Then the Lord Chancellor, by Order Thanks given of the House, returned their Thanks to his Grace the Duke to the Duke of of Marlborough, for his eminent Services performed the last Marlborough. Campaign.

The Committee appointed by the Lords to draw up the The Motion for Address, moved by Lord Somers, having prepared it, and their the Demolition Lordships having approved it, it was fent down to the Com- of Dunkirk. mons, where Mr. Secretary Boyle represented, & That the Britif Nation having been at a vast Expence of Blood and Treafure for the Profecution of this necessary War, it was but just they should reap some Benefit by the Peace; and the Town of Dunkirk being a Nest of Pirates that infested the Ocean. and did infinite Mischief to Trade, he therefore moved that the demolishing the Harbour and Fortifications of that Town be infitted upon in the Address :' Which being accordingly inferted, Mr. Secretary Boyle carried it back to the Lords. And the next Day, March the 3d, the Lord Chancellor, on the Part of the Peers, and the Speaker of the House of Com-Address to the mons, on the Part of the Commons, presented the said Ad-Queen.
dress to the Queen, who answer'd, "I am of the same Opi-Her Majesty's nion with my two Houses of Parliament, in the several Answer.

Particulars of this Address, as I have also been in all the

" the Ends you have defired." March the 15th, Hodie 2ª wice lecta eft Billa, entitled, An Bill for Natura.

Act for naturalizing foreign Protestants. After Debate, the Question was put, Whether this Bill shall be committed ?

"other which they have made on the same Subject; and I

affure you, no Care shall be wanting on my Part, to attain

It was resolved in the Affirmative.

Diffentient'

ive

ar-

few

oals cks

8.

aftle

ions

tch-

only

ver,

the

ap-

here

has

ear,

er is had

but 152

rath.

ai 15

d, to

add

r the

nger,

out a

Lord

ween

made

king-

vhich

dered

joint e had

Time emitt

ne ge that

21

e.'

Because we humbly conceive, that this Bill of general Protest thereon. Naturalization will be very prejudicial to the Trade and Manufactures of this Nation, and may be of ill Consequence to our Liberties and Religion.

Buckingham, Guernsey, Scarsdale, Thanet, North and Grey, Anglesea, Guilford, Nottingham.

The 28th, Hodie 3ª vice lecta eft Billa, entitled, an Act Rider to the Bill for improving for improving the Union of the two Kingdoms. A Rider was offered to be added to the Bill; which was jected.

read, as follows:

(Provided

Anno 3 Annæ,

(Provided always, and be it enacted, by the Authoring aforesaid, that no Person shall be tried for High-Treason, or Misprission of High-Treason, unless a Copy of his ladictment, together with all the Witnesses Names endorsed upon it, as it shall come from the Grand Jury, shall be delivered to the Prisoner, sive Days, at the least, before the Trial of the said Prisoner.)

Then the Question was put, Whether this Rider shall be

read a second time ?

It was resolved in the Negative.

Protest thereon.

Diffentient'
We conceive it not for the Safety of the Subject, that the Names of those Witnesses, which shall appear endorsed on the Indictment, when it comes from the Grand Jury, shall be concealed from the Prisoner, who, by receiving Notes of such Witnesses, sive Days before his Trial, may be enabled to discredit them, if he be innocent, and yet not enabled to escape, in case he be guilty.

Buckingham, Peterborough, Dover, Guilford, Greenwich, Scarsdale, Loudoun, Seasteld, Annandale, Crawson, Roseberie, Scarborough, Hamilton, Rothes, Warrington, Isla, Denbigh, Marr, Poulett, Gi. Sarum, Montros, Roxburgh, Wemys, Orkney.

Then the Question was put, Whether this Bill shall publ It was resolved in the Assirmative.

The Bill pass'd.

Diffentient'

Protest thereon.

We humbly beg Leave to protest against the Title, Preamble, and Body of this Bill, for the Reasons following:

rft, We conceive the general Title of this Bill very improper, because it does not express the particular Purpose of it, which are altering the Laws of the northern Part d Britain, and the Method of Trials in Matters relating to Treason; and because we apprehend, this Act will be so from answering its Title, of improving the Union, that we are humbly of Opinion, and sincerely persuaded, it may have a quite contrary Effect.

adly, The Preamble of this Bill may happen to give the necessary Grounds of Suspicion, to mistaken People, the there is a Tendency towards a total Alteration of the Law of Scotland, which cannot but create great Uneasiness to the People, who rested in a Confidence, that their private Law were secured to them by the Articles of the Union, so as not to be altered without the evident Utility of the People of

Scotland.

3dly, It does not appear to be necessary, that new Cours and Jurisdictions should be created in a Country where the

Courts

Courts of Justiciary were to be preserved in the Exercise of Anno 8 Annæ, their Authority by the Articles of the Union, tho' it might be thought reasonable, that the same Facts and Offences might be esteemed Treason and Misprision of Treason, and that the Punishments might be likewise the same; and we do humbly conceive, that the Commissions of Oyer and Terminer may be construed an impairing of the Authority of the Courts of Justiciary in Scotland, and the entire Alteration of the Methods of Trials may render it very difficult to prosecute any Person for the Crimes of Treason, and very insecure for the People, who are to make their Desence in unknown Methods.

athly, The general Description of Treason in this Act, without specifying either the particular Facts that shall be accounted treasonable, or the particular Laws to be established in both Kingdoms, is a just Exception against the Bill; for it would have been a great Satisfaction to the People of North Britain, if these Laws had been reviewed in a Parliament where their Representatives might have had Time to have examined the Reasonableness of them, and had a Share in the passing them; but the enacting all the Laws of England, without entering into any Detail of Consideration

of them, may create great Uneafiness.

hority

eafon.

is In.

lorfed

be de

re the

all be

at the

ed on

fhall

Votice

be en-

ot en-

wich.

ofurd,

ngton,

ntrose,

país?

Pre

g:

y im-

art of

ng to

fo fu

have

e un-

Laws

that

Laws

is not

ple d

Courts

e the

Court

5thly. The prefent Laws of Scotland, in relation to the Forfeitures, ought to have been confidered as established upon most solid Foundations; they were settled upon the Tender of the Crown to King William, and accordingly passed into Laws at that Time, which the Subjects might well conclude they should never be deprived of: But the Proviso in this Act relating to Marriage Settlements is only a Remedy in part, and but a Share of the just Provisions made on behalf of the Subjects in that remarkable and happy Revolution, which so much improved the Constitution of both Kingdoms.

Laftly, We conceive, that whereas the Qualification for a Jury-Man to be sworn upon the Pannel is by this Act affixed to the Possessin of forty Shillings per Ann. it ought to have been kept up to what the Law of England now ordains in Trial, which is, that the Jury-Man be siezed of ten Pounds

per Ann. in his own Right, or that of his Wife's.

Buckingham, Annandale, Roseberie, Seafield, Crawfurd, Dover, Montrose, Guilford, Denbigh, Loudoun, Orkney, Rothes, Greenwich. Roxburgh, Gi. Sarum, Marr, Peterborough, Wemys, Isla, Hamilton.

An Abstract of this remarkable Bill is as follows:

It is hereby enacted, that after the 1st of July, 1709. Abstract of the fach Crimes and Offences as are High Treason, or Misprisson said Bill.

Anno 8 Anna, of High Treason in England, shall be adjudged, and take to be High Treason, and Misprisson of High Treason in Scotland, and no other: And that the Queen, her Heirs and Successors, may issue out Commissions of Oyer and Termine under the Great Seal of Great Britain, to fuch Persons as fe or they shall think fit, so that three of the Lords of Julici. ary be in the faid Commission, Quorum, to enquire, her and determine fuch High Treason, and Misprisson of High Treason, in such manner as is used in England.

Provided, that where any fuch Commission of Over and Terminer is to be executed within a District where there is a Justice-General, or Person having Right of Justiciary, what had Jurisdiction in Cases of High Treason, or Misprisson of Treason, at the making this Act, such Right being made appear to the Lords of Session, and certified by them to the Lord Changellor of Great Britain, such Justice-General, & or his Deputy, shall be in the said Commission, and one of

the Quorum.

And the Justice Court, and other Courts, having Power to judge of the faid Offences in Scotland, shall enquire by the Oaths of twelve Men of the County, Shire, or Stewary, where fuch Courts fit, of all High Treasons, and Milpri fions of High Treason there committed, and proceed to her and determine the faid Offences, whereof any Person hall be indicted before them, in such manner as the Count of Queen's-Bench, or Justices of Oyer and Terminer in England may do: And if any Person be indicted of the said Offences, before Justices of Oyer and Terminer, or in the Circuit Courts or other Courts, having Power to judge thereof in Scotland, then, upon the Request of the Queen's Advocate n the Lord-Chancellor or Keeper of Great Britain, he shall award a Writ of Certiorari, directed to the Justices of Oye and Terminer, &c. to certify such Indictment into the Cir cuit Court, which Court shall proceed upon, hear, and determine the same as the Court of King's-Bench of England may do upon Indictments removed or certified into the fall Court: And Persons convicted or attainted of High Trafon, or Misprision of High Treason in Scotland, shall & subject to the same Corruption of Blood, Pains, Penalite, and Forseitures, as Persons convicted or attainted thereof in England.

Provided, that where any Person shall before the illd July be seized of an Estate Tail in Lands, &c. and is shall be married before the said 1st of July, and shall have Issue living of the Marriage, or any Possibility of such Issue at the Time of the High Treason committed, then sed Lands, &c. shall not be forfeited upon the Attainder of sud Person for High Treason, (but during the Life of the Per. Anno 8 Annæ, son attainted only) and the Issue and Heirs in Tail of such Marriage, shall inherit the same, the said Attainder notwith-

standing.

ken

in

and

the

tici.

ear,

ligh

and

re is

Who

n of

nade

the

Bc.

ne of

er to

the arty,

ilpri-

hear fhall

rt of

gland

nces.

ircut

of in

ate to

Oyer

Cir.

deter-

fail

Tres

all be

eof is

ıft d

is a

have

Iffue,

fuch fuch

erfot

And further, all Treasons and Misprisions of Treasons, which after the said 1st of July shall be committed by a Native of Scotland, at Sea, or in any Place of the Realm of Great-Britain, shall be tried before the said Justice Court, or before such Commissions of Oyer and Terminer, and in such Shire, Stewarty, or County of Great-Britain, as shall be assigned by the Queen's Commission, and by good and lawful Men of the same Shire, as if the Fact had been committed there, and from, and after the said 1st of July, 1709, no Person accused of any Capital Offence, in Scotland, shall suffer, or be liable to any Torture, provided, that this shall not take away any Judgment that is given in England, against such as stand mute and resuse to plead.

Provided that every Jury-man, returned at such Trials, shall be seized, in his own Right, or in the Right of his Wise, of Lands of Inheritance, or for his, or her Life, or the Life of some other Person, within the County, Stewarty, or Place where the Trial shall be, or from whence the Jury is to come, of the Yearly Value of 40s. at least: And for want thereof, or for any other lawful Cause, a Jury man may

be challenged, and fet afide.

And it is further enacted, that Theft in landed Men, Murder under Trust, wisul Fire-raising, firing Coal Pits, and Assassian, which were Treason in Scotland, shall after the said 1st of July, be only adjudged, and deemed to be Capital Offences, and the Offenders shall only be liable to such Pains and Punishments, as by the Laws of Scotland are institled on the Committers of Capital Offences, and they shall be tried in the same manner, as by the Laws of Scotland is provided in other Capital Cases.

Whoever shall slay any of the Lords of Session, a Lord of Justiciary sitting in Judgment, in the Exercise of their Office within Scotland, shall be adjudged guilty of High Treason.

And whoever shall counterfeit her Majesty's Seals, appointed by the fourth Article of the Union, to be kept and psed in Scotland, shall be adjudged guilty of High Treason.

Provided that, after the Death of the Pretender, and at the end of three Years after the Hanover Succession shall take place, (on the Demise of her Majesty) no Attainder for Treason to the disinheriting of any Heir, or to the Prejudice of the Right or Title of any Persons, other than the Right or Title of the Offenders, during their natural Lives only; and every Person to whom the Right of any Lands, after 1709.

Anno 8 Annæ, the Death of fuch Offender, might have appertained if no 1709. fuch Attainder had been, may enter into the fame.

And after the Death of the Pretender, and three Yean after the Hanover Succession shall take place as aforesaid, when any Person is indicated for High Treason, or Misprisson of Treason: A List of the Witnesses that shall be produced on the Trial, and of the Jury, with the Names, Profession, and Place of Abode of the said Witnesses, and Jurors, shall be given, at the same Time that the Copy of the Indicates is delivered to the Prisoner, which shall be delivered to the Prisoner ten Days before the Trial, in the Presence of two credible Witnesses.

At the same time that this Bill received the Royal Assen, wiz. April the 21st, the Lords Commissioners put an End in the Parliament with a Speech, which is to be found in CHAND.

LER's Hiftory, Anno 8 Annæ, 1709, Page 134.

Affairs Abroad,

Conferences, at the Hague, having been opened for a general Peace, the Duke of Marlborough and Lord Township had been appointed joint Plenipotentiaries in behalf of Grant Britain; and Preliminaries, to the last Degree mortifying on the Side of France, (such as the restoring the whole Spanish Monarchy to King Charles within two Months, as likewish the Netherlands, except Cambray and St. Omer's, several Paces to the Empire, Savoy to the Duke, and Newfoundlands England, the demolishing of Dunkirk, the removing the Pretender; no Suspension of Arms till the Article relating to the Spanish Monarchy was suffilled, &c. &c.) were agreed upon, but not ratissed, upon which it was resolved to brak off the Treaty, and proceed with the War. Accordings the Campaign was opened on all Sides, and once more the Fate of Europe was left to the Decision of the Sword.

But little was done on the Rhine, as usual; the Portagueze ventured on an Engagement and were beaten. The Duke of Savoy gave the French no Disturbance in Dauphin, because the Emperor refus'd to come up to the Price is had set upon his Services: And in Spain, when King Philip would have engaged Count Staremberg, the French General, Besons, produced his Master's Orders to avoid a Battle.

Thus the grand Issue was left to be determined in Flander, and the principal Strength of both Parties was stationed to

dispute the Point accordingly.

While the French were expecting the Confederates to open the Campaign with the Siege of Ypres, they suddenly invested Tournay; and in the beginning of September, made them selves Masters of it. After which they undertook Month but were prevented from making any Progress in their Design, by the Arrival of the Marshals Villars and Boufferi, who

who posses of a Wood, and covered their Camp Anno 8 Anne, with Lines almost impenetrable, before a Resolution was taken to dislodge them. Mons was, however, thought worthy so desperate an Attempt; and, to the Amazement of all military Critics, it was crown'd with Success. The Enemy, however, retired to Valenciennes, and Mons surrender'd in Odober; with which Exploit ended the Compaign.

At Sea nothing was done, or thought of, tho' the French had left it free and open to whatever Enterprizes we pleased

to undertake.

f no

l'ears

faid,

ifion

uced

fion,

fhall

ment

two

ffent,

nd to

AND.

n ge. n fend Great

ying

anif

ewife

Pla-

nd to

Pre-

ng to

reed

reak

ingly

e the

ortu-

The

him,

e he

bill

eral,

eders,

ed to

open

nvel-

hem-

font;

De.

Hers;

who

The SECOND SESSION of the Second Parliament of GREAT BRITAIN

W AS opened, November the 15th, with a Speech to both Houses, by her Majesty in Person, which see in

CHANDLER'S History, Anno 8 Annæ, 1709, Page 135.

November the 17th, The Lords attended her Majesty with
an Address, wherein they said, & They could not conceal the Lords Address

Joy and Satisfaction which filled their Hearts, in seeing her of Thanks.

Majesty sitting on her Throne again, after that great Mis-

fortune which had deprived them of her Presence during the saft Session: Nor could they forbear returning her Majesty their Thanks for her Speech; whereby it appeared, how readily her Tenderness for her People inclined her Majesty to hearken to Proposals of Peace; how wisely and steadily she proceeded in the first Steps of the Treaty, and how justly she resented the Artifices and Infincerity of the Enemy.

'They congratulated the continued Success of her Majesty's 'Arms, under the Duke of Marlborough, whose Conduct, 'they said, was worthy of the chief Command in so just a 'War, and whose Valour was equal to the Bravery of her 'Troops: And they affured her they would, to the utmost of their Power, support her Majesty to carry on the War, and improve the Advantages she had gain'd; till France was 'compell'd to submit to the Terms of a safe and lasting Peace for them and all their Allies.'

As the Affair of Dr. Sacheverell engross'd the Attention of Dr. Sachevethe whole Kingdom during this Session, and left the Nation rell's Case. in a Ferment for a long while, so scarce any one particular Transaction besides of either House in that Interval hath

been held worthy of the Notice of Posterity.

December the 13th, This * Affair was first broach'd in the House of Commons, and, January the 13th, the

M m 2

Doctor

See Chandler's Hiftory, Anno 8 Annæ, 1709, Page 137.

Anno 8 Annæ, Doctor was impeached in the House of Lords on the fol.

Articles exhibited against him. Art. I. That the said Henry Sachewerell, in the said Sermon preached at St. Paul's, did suggest and maintain, That the necessary Means used to bring about the Revolution were odious and unjustifiable: That his late Majesty, in his Declaration, disclaimed the least Imputation of Resistance; and that to impute Resistance to the Revolution, was to cast black and odious Colours upon his late Majesty, and the said Revolution.

Art II. That in his Sermon preached at St. Paul's, he did suggest and maintain, That the Toleration was unreasonable, and the Allowance of it was unwarantable; And afferted, That he is a salse Brother, with relation to God, Religion, or the Church, who defends Toleration and Liberty of Conscience: That Queen Elizabeth was deluded by Archbishop Grindal (whom he calls a salse Son of the Church, and a persidious Prelate) to the Toleration of the Genevian Discipline; and that it was the Duty of superior Pastors, to thunder out their ecclesiastical Anathemas against Persons entitled to the Benesit of the said Toleration, and insolently dares and desies any Power on Earth to reverse such Sentence.

Art. III That in his faid Sermon at St. Paul's he did falsely and seditiously suggest and affert, That the Church of England was in a Condition of great Peril and Adversity, under her Majesty's Administration: And, in order to arraign and blacken the Resolution of both Houses, approved by her Majesty, he did, in Opposition thereto, suggest the Church to be in Danger, and, as a Parallel, mentions a Vote That the Person of King Charles I. was voted to be out of Danger, at the same Time that his Murderers were conspiring his Death; thereby wickedly and maliciously infinuating. That the Members of both Houses, who passed the said Vote, were then conspiring the Ruin of the Church.

Art. IV. That in his said Sermons and Books, he did salsely and maliciously suggest. That her Majesty's Administration, both in Ecclesiatical and Civil Affairs, tended to the Destruction of the Constitution: And that there are Men of Characters and Stations in Church and State who are false Brethren; and do, themselves, weaken, undermine, and betray, and do encourage, and put it in the Power of others, who are profes'd Enemies, to overturn and destroy the Constitution: And charges her Majesty and those in Authority under her, both in Church and State, with a general male Administration: And, as a public Incendiary, he perswades her Majesty's Subjects to keep up a Distinction of Factions and Pariety's Subjects to keep up a Distinction of Factions and Pariety's Subjects to keep up a Distinction of Factions and Pariety's Subjects to keep up a Distinction of Factions and Pariety's Subjects and Pariety's Subjects to keep up a Distinction of Factions and Pariety's Subjects to keep up a Distinction of Factions and Pariety's Subjects to keep up a Distinction of Factions and Pariety and the pariety of the pa

ties; inftils groundless Jealousies, foments destructive Di- Anno 8 Anna. visions among them, and excites and stirs them up to Arms 1709-10. and Violence: And that his malicious and feditious Suggestions may make the stronger Impressions, he did wickedly wrest and prevert several Passages of Holy Scripture.

The next Day the Doctor was admitted to Bail, by the

Lords, a Favour which the Commons had refused.

February the 27th, He had the Honour of a solemn Trial ther Majesty being present) in Westminster-Hall, which runhing into much greater Length than fuch a trifling Case deferved, and being likewise extant entire, we shall content purselves with that Portion of it which concerns the House of

Lords only.

fol:

Ser-That

tion his

nce:

caft

the

, he

lon-

af.

God,

ber-

by.

the the

rior

ainft

and

rerfe

did

urch

fity,

af.

oved

the Vote

at of

conin-

affed

rch.

did mi-

d to

Men

falle

ray,

are

on:

her, fra-

Ma-

Par-

ies;

March the 14th, Report was made from the Committee Resolution that ppointed to inspect into Precedents of Impeachments con- the Words superning High Crimes and Misdemeanors, and some of the posed to be cri-Precedents being read at large, after Debate, the Question minal are not necessary to be was put, that by the Law and Usage of Parliament in Prose-expressed in Im. utions, by Impeachments for High Crimes and Misdemea- peachmentr. fors by Writing or Speaking, the particular Words supposed o be criminal, are * not necessary to be expresly specified in uch Impeachments?

It was refolved in the Affirmative: Contents 65; Not

contents 47. Diffentient'

1/3. Because, we conceive, the Law of the Land is as Protest thereon. nuch the Rule of Judicature in Parliament, as it is in the nferior Courts of Justice; and fince, by the Opinion of all he Judges in all Profecutions by Information or Indictment or Writing or Speaking, the particular Words, supposed to e criminal, mult be expresly specified in such Informations or Indictments; and that this is the Law of the Land, conrmed by constant Practice; we conceive, that there is the ame Reason and Justice for specifying in Impeachments the articular Words supposed to be criminal, for otherwise a ferion who is innocent and fafe by the Law, out of Parlianent, may nevertheless be condemned in Parliament.

For we conceive, that some Reasons of Law and Justice, thy the Words supposed Criminal must be specified in Infornations and Indictments, may be, that the Party accused may ertainly know his Charge, and be thereby enabled to deend his Innocence; that the Jury may know it too, and be nabled thereby the better to apply the Evidence given by

the

^{*} The Judges having been confulted on this Occasion, unanimously we it as their Opinion, that the Words supposed to be criminal ought to specified.

Anno 8 Annæ, the Witnesses to the Matter of such Charge; and that the Judges themselves may the better judge of the nature of the Crime, and of a Punishment adequate to it; which, in Cale of Misdemeanors, which are indefinite and innumerable. must extremely vary, according to the Heinousness of the Offence; and finally, that the House of Lords, upon Com. plaint to them, may also judge whether the Fine, which is usually one of the Punishments for Misdemeanors, do no exceed the Demerit, especially fince, by the Bill of Rights. exorbitant Fines are declared to be illegal; which Realis feems to be fully as strong, in the Case of Impeachments, a in Indictments and Informations: For the particular Words are as necessary to enable the Lords to determine uprights and impartially, as the Jury or Judges, and as necessary for the Defence of the Accused here, as in the Courts below; and if there were to be a Difference, it feems more necessary in this High Court; for the weightier the Profecution is, the more need has an unfortunate Man of Indulgence and all lawful Favour; and furely there cannot be a heavier Lod upon a Man, than an Accusation by all the Commons of Britain.

adly, We do not remember any Precedent infifted on for the Maintainance of this Resolution, save only the Case of Dr. Manwaring, which, we conceive, could not warrant this

Resolution: For,

1. The Words charged upon him by the Commons Deck. ration were not compared with the Sermons, tho' it was defired, and confequently no Lord could fay, they were not the Words of the Sermon; and, therefore, upon fuch Uncertainty, we conceive, we could not ground a positive Resolution.

2. The Charge upon him, taken out of his Sermon, a the 4th of May, 1628, seems to be the very Words by him spoken, for they were attested by Ear-witnesses, who surely never were or could be admitted to attest their own Conjutures of the Scope of a Sermon, and not specify the very Words, for that would be to make the Witnesses to be the Judges.

3. Besides, in such a Case as this, where the Party of not infift upon any legal and just Exceptions, of which is might have taken Advantage, if he had made his Defent, which he did not, but submitted and begg'd Pardon; this ought not to be looked upon as a Precedent or Authority in justify the Illegality of the Form of that Impeachment.

3 dly, But altho' this Precedent were full, and express total Point resolved, we humbly conceive, that one Precedent # not sufficient to support a Law and Custom of Parliament, nor confequently a Resolution declaring it; for surely the

is great Difference between a fingle Instance and a Law and Anno 8 Annæ, Custom.

Athly, Especially since, we conceive, that in all the Precedents, at least all that have appeared to us, for four hundred Years, of the Prosecutions in Parliament, the particular Words charged as criminal have been constantly expressed in the Articles, or Declarations of Impeachments.

E. II. Exilium Hugonis le de Spencer Patris & Filii, the fift Article was, for making a Bill in Writing, the Tenour

whereof was particularly fet forth.

t the

Cales

able,

Com-

ch is

100 O

ights,

eafor

ts, 25

Vords

ghtly

y for

low;

effary

s, the

nd all

Load f Bri-

n for

it this

Decla.

as de-

ot the

ainty,

n, or

y him

furely

onjec-

very

e the

ty did

ch he

fence,

; this

ity to

to the

ent is

ment,

there

28. H. VI. William de la Pool, fixth Article was, for Words spoken by him sitting in the Council in the Star-Chamber, viz. That he said, he had a Place in the Council-House of the French King, as he had here, and was as well trusted as he was here, and could remove from the French King the priviest Man of his Council if he would.

Lord Finch.

The Opinions he delivered are fet forth in hac Verba, as Articles 4 & 5.

lso the Times when he delivered them.

Another Opinion delivered by him in the Exchequer-Chamber, and Western Circuit, is set down in his express

Words.

Doctor Cosens.

He is charged with Words delivered in a Sermon at Dur- Article 11.

ham; the Words are these, The Reformers, &c.

Charges him with Words in like manner; the Words Article 19.
were these, The King, &c.

Berkeley.

The Words charged upon him are expressly mentioned.

That he subscribed an Opinion in bac Verba, which are

That he subscribed an Opinion in bac Verba, which are 4 and 5. pecified.

The Matter therein charged though of Record was co.

The Matter therein charged, though of Record, was cosied and delivered with the Articles.

The Words spoken, and the Place express set forth. 7 and 8.

Judge Crawley. 1641.

For subscribing and giving Opinions, set forth in hac Articles 1, 2, 3.

Herbert.

For exhibiting Articles against the five Members, which bllow in these Words, &c.

Thirteen Bishops impeached for making and promulging, 1640, several Constitutions and Canons, contrary to the King's Prerogative, &c.

They demurred because the Charge was general, but reeded from this Demurr, because it appeared to be paricular.

Earl

1641. Article 1.

1641.

1641.

Anno 8 Annæ,

1641.

Article 2. 4. 26.

1642.

Art, 1, 4, 10.

Earl Stafford.

Expresses the Words spoken by him, and the Time. 20, 21, 22, 23, 24, 25, 27, expresses the very World spoken by him.

Is in like Manner with an Innuendo of his Meaning,

Archbishop Laud.

Expresses the Words spoken by him.

Expresses the Words spoken by him, and the Time and Place.

So necessary did the long Parliament itself think it, in pursue the Forms of Law in all their Prosecutions.

Upon the whole therefore, we humbly conceive, that is great a Number of Precedents is sufficient to outweigh the fingle Instance of Dr. Manwaring's Case, how opposite in ever it may feem to be to the present Case, which, for the Reasons we have mentioned, is far from being plain and clear, or having the full Authority of a Precedent; and the Law and Custom of Parliament, as we conceive, is to be determined by constant Course and Practice, and not our Precedent, occasioned by so odious Doctrines as those of Dr. Manwaring; nor can the contrary Affertion to the above faid Resolution be of any ill Consequence to Impeachment by the Commons, because 'tis easy for them to specify the Words which offend them, but extremely difficult for the Accused to defend himself without knowing them; and a all, who are charged criminally, have Leave to make their Defence, so they shall also have allowed to them all lawful Means for it.

Jo. Ebor', Scarsdale, Beaufort, Berkshire, Scarborough, Conway, H. London, Thanet, Abingdon, North and Gny, Osborn, N. Duresme, Plymouth, Denbigh, Rochesta, W. Cestriens', Guilford, Guernsey, Nottingham, North ampton, Willoughby de Broke, Howard, Sussex, Ferna, Yarmouth, Weymouth, Stawell, Lempster, Leeds, Angle Sea, Jersey, Craven.

March the 16th, The Order of the 14th Instant being read, for taking into Consideration the Impeachment of Da Henry Sachewerell, Article by Article,

And it being moved to declare, That the Commons had made good the first Article against Dr. Sachewerell, a long Debate ensued thereupon, of which Bishop Burnet gives he following Abstract:

Bishop Burnet's 'It stuck long on the first Article; none pretended to just Abstract of the fy the Sermon, or to affert absolute Non-resistance: All who Debates on the favoured him, went upon this, that the Duty of Obediens Doctor's Case. ought to be delivered in full and general Words, without put

Vorde

.

e and

it, to

at fe

h the

e fo or the

and d the

to be

t one

fe d

bove-

ment

y the

r the

nd as

their awful

Grey,

bester, North

erreri,

Angle

being

of Dr.

s bal long

es the

justi 11 who

diend

at put

ting odd Exceptions, or supposing odious Cases: This had Anno & Anna. been the Method of all our Divines. Pains were also taken to shew, that this Sermon did not reflect on the Revolution : On the other hand, it was faid, that fince the Revolution had happened so lately, and was made still the Subject of so much Controverly, those absolute Expressions did plainly The Revolution was the whole Progress of the condemn it. Turn, from the Prince of Orange's landing, till the Act of Senlement passed. The Act of Parliament expressed, what was meant, by the Abdication and the Vacancy of the Throne; that it did not only relate to King James's withdrawing himelf, but to his ceasing to govern according to our Constituion and Laws, fetting up his mere Will and Pleasure, as the Measure of his Government: This was made plainer, by another Clause in the Acts then passed, which provided, that fany of our Princes should become Papists, or marry Papifts, the Subjects were, in those Cases, declared to be free from their Allegiance. Some of the Bishops spoke in this Debate on each Side; Hooper, Bishop of Bath and Wells, Bishops of Bath poke in excuse of Sacheverell: But Talbot, Bishop of Oxford; and Wells, Wake, Bishop of Lincoln; Trimnel, Bishop of Norwich, and nyself spoke on the other Side. We shewed the Falshood f an Opinion too commonly received, that the Church of England had always condemned Resistance, even in the Cases of extreme Tyranny: The Books, of the Maccabees, ound in our Bibles, and approved by our Articles, (as conaining Examples of Life and Instruction of Manners, tho' ot as any Part of the Canon of the Scripture) contained a ull and clear Precedent for resisting and shaking off extreme Tyranny: The Jews, under that brave Family, not only efended themselves against Antiochus, but formed themselves nto a free and new Government. Our Homilies were only gainst wilful Rebellion, such as had been then against our lings, while they were governing by Law: But, at that very lime, Queen Elizabeth had affisted, first the Scotch, and then he French, and to the end of her Days continued to protect he States, who not only refisted, but, as the Maccabees had one, shook off the Spanish Yoke, and set up a new Form f Government: In all this she was not only justified by the elt Writers of that Time, such as Jewel and Bilson, but was pproved and supported in it: Both her Parliaments and Conocations gave her Subfidies, to carry on those Wars. ame Principals were kept up all King James's Reign: In he Beginning of King Charles's Reign, he protected the Robeliers, and asked Supplies from the Parliament, to enable im to do it effectually; and ordered a Fast and Prayers to be hade for them. It is true, soon after that, new Notions of 1709 10. Nn absolute

Oxford, Norwich, and Sarum.

1709-10.

Anno 8 Annæ, absolute Power, derived from God to Kings, were taken up: at the first Rise given to these by Manwaring, they were condemned by a Sentence of the Lords; and tho' he submitted. and retracted his Opinion, yet a severe Censure passed upon him : But during the long Discontinuance of Parliaments that followed, this Doctrine was more favoured; it was generally preached up, and many things were done pursuant toit, which put the Nation into the great Convultions that fol-After these were over, it was lowed in our Civil Wars. natural to return to the other Extreme, as Courts naturally favour such Doctrines. King James trusted too much to it; yet the very Assertors of that Doctrine were the first, who pleaded for Refittance, when they thought they needed it

The Question was then proposed, that the Commons have made good their first Article of Impeachment against Hem

Sacheverell, Doctor in Divinity.

Previous Quefirst Article.

And after further Debate thereupon, this Question was flion put on the put, Whether this Question shall be now put?

It was resolved in the Affirmative. Contents 68; Not contents 52.

Diffentient'

Protest thereon.

Because, we humbly conceive there are no Restection therein contained on the Memory of the late King William, nor the Revolution, and that there is no Offence charged therein upon Dr. Sacheverell against any known Law of the Land.

Ormand, Leeds, Scarborough, Beaufort, Suffex, Tho: Roffi, Thanet, Henry London, Dartmouth, Marr, Guilford, W. Ceftriens', Clorn, N. Duresme, North and Grey, Northit, Guernfey, Hamilton, Suffolk, Poulett, Weymouth, Stawal Geo. Bath and Wells, Shrewfbury, Say and Seal, Jo. Ebo, Lexington, Leigh, Willoughby de Broke, Lempfter, But ingham, Jersey, Scarsdale, Haversham, Berkshire, & chefter, Craven, Denbigh, Abingdon, Anglefea, Howard Berkeley of Stratton, Northampton, Plymouth, Wella, Yarmouth, R. Ferrers, Nottingham, Conway, Chanding Wemvis.

Main Question pass'd in the Affirmative.

Then the main Question was put, That the Common have made good their first Article of Impeachment again Henry Sacheverell, Doctor in Divinity?

It was resolved in the Affirmative.

Diffentient'

Protest thereon.

Because, by the Laws of the Land, the Laws of Paris ment, and the inherent Right of Peerage, every Peer is judge for himself, both of the Fact as well as of the las and cannot be precluded from it by any Majority; which

n up;

e con-

nitted,

upon

ts that

erally

to it,

t fol-

t Was

turally

to it;

, who it.

s have

Henry

n W23

t con-

Ctions

lliam,

arged

of the

Roffen,

d, W.

rtheft,

2 well

Ebor'.

Buck

e, Ro

ward,

Vefton,

andois,

mon

gaint

arli

Law

which

ndeed

indeed must determine the Case, in respect to the Criminal, Anno 9 Anna, but never did, nor can preclude any Lord from voting the Party accused, guilty, or not guilty of the Fact, as well as of the Crime of fuch Fact.

Leeds, Jersey, H. London, Berksbire, Denbigh, Thanet, Scarborough, Craven, North and Grey. Ofborn, Leigh Suffex, W. Cestriens', Tho. Roffen', Lempster, Scarsdale, Northampton, Weymouth, Stawell, Plymouth, Abingdon, Yarmouth, Conway, Geo. Bath and Wells, Beaufort, Albburnham, Nottingham, Rochester, R. Ferrers, Howard, Guernsey.

March the 18th, Ordered, that the Question to be put to Question to be each Lord in Westminster Hall shall be, put in Westmin-

Is Henry Sacheverell, Doctor in Divinity, guilty of High ffer Hall. Crimes and Mildemeanors charged on him by the Impeachment of the House of Commons; and the Answer thereunto shall be Guilty or Not Guilty only. Contents 65; Not conents 53.

Diffentient' 1st, We do humbly conceive, that the obliging every Lord Protest thereon.

to answer generally, guilty, or not guilty, to a Question containing all the Articles of this Impeachment, is a kind of tacking upon ourselves, by an unnecessary joining, Matters of a different Nature, and subjecting them to one and the same Determination; and consequently may prejudice the Right every Peer has to give a free Affirmative or Negative, fince whoever thinks Dr. Sacheverell guilty of one Part, and innocent of the other, will be obliged either to approve what he condemns, or condemn what he approves.

adly, We do humbly conceive there is, at least, a Possibility, that though a Majority of the House, if admitted to vote to the Articles separately, may think him innocent upon each Article, yet, by this Method of a general Answer, he may be condemned of all; which seems not to be consistent

with the usual Methods of Justice in this House. 3dly, We do humbly conceive, that fince the Judgment of the House, in this Case, ought to be a Declaration of the Law, the Condition of the People will be most miterable, to have Punishment inflicted for High Crimes and Misdemeanors, and not to have a Possibility of informing themleives, what the High Crimes and Misdemeanors thereby punished, are; for the People's on'y Guide is the Law, and they can never be guided by what they can never be informed of: And we do humbly conceive, that this Uncertainty being in the Case of a Clergyman for Preaching, it may lossibly create some Fears in good Men, when they preach N n 2

1709-10.

Anno o Annæ, fome Doctrines of the Church of England, particularly the of Non-Relistance; and may be made use of, by ill ones, as an Excuse for the Neglect of that Duty, which, upon some Occasions, is required of them, even by the Laws of the Land.

> Ormond, Denbigh, Weymouth, Howard, Geo. Bath and Wells, Leigh, Guilford, Willoughby de Broke, Stawell. Thanet, R. Ferrers, Guernsey, Beaufort, Northampim, Lempster, Plymouth, Abingdon, Weston, Berkshire, Scart. dale, Paulett, Nottingham, Suffex, Rochefter, Crave, Conway, Jerley, Ofborn, Leeds, Haversham, Yarmouto. Anglesea, H. London, North and Grey.

The Dofter voted guilty.

The Lords then went down to the Hall, where the Quel tion being put upon the whole Impeachment, Guilty, or No. Guilty, fifty-two voted him Not Guilty, and fixty-nine vo

ted him Guilty.

The next Debate was, what Cenfure ought to pass upon him: And here a strange Turn appeared; some seemed to apprehend the Effects of a popular Fury, if the Censure was fevere; to others it was faid, that the Queen defired it might be mild; so it was proposed to suspend him from Preaching for one Year; others were for fix Years; but by a Voteit was fixed to three Years. It was next moved, that he should be incapable of all Preferment for those three Years; upon that, the House was divided, fifty-nine were for the Vote, and fixty were against it; so that being laid aside, the Ser-Sentence pass'd mon was ordered to be burnt, in the Presence of the Lord Mayor and Sheriffs of London; and this was done, only the Lord Mayor, being a Member of the House of Commons, did not think he was bound to be present. The Lords allo voted, that the Decrees of the University of Oxford, passed in 1683, in which the absolute Authority of Princes, and the Unalterableness of the hereditary Right of succeeding to the Crown, were afferted in a very high Strain, should be burnt with Sacheverell's Sermon.

upon him.

A LIST of the Lords who woted for and against Dr. Sa. cheverell.

Lord Hervey, guilty. Lord Conway, not guilty. Lord Guernsey, not guilty. Lord Hallifax, guilty. Lord Haversham, not guilty. Lord Herbert, guilty. Lord Weston, not guilty.

Lord Lempster, not guilty. Lord Guilford, not guilty. Lord Stawell, not guilty. Lord Dartmouth, not guilty. Lord Offulton, guilty. Lord Ofborn, not guilty. Lord Craven, not guilty.

Lord Cornwallis, guilty. Lord Berkley of Stratton, not guilty. Lord Lexington, not guilty. Lord Rockingham, guilty. Lord Colepeper, guilty. Lord Byron, guilty. Lord Leigh, not guilty. Lord Mohun, guilty. Lord Howard of Escrick, not guilty. Lord Hunfdon, guilty. Lord Chandois, not guilty. Lord North and Grey, not guilty. Lord Paget, guilty. Lord Willoughby of Broke, not guilty. Lord Fitzwalter, guilty. Lord Ferrers, not guilty. Lord Delawar, guilty. Bishop of St. Asaph, guilty. Bishop of Norwich, guilty. Bishop of Chester, not guilty. Bishop of Lincoln, guilty. Bishop of Bath and Wells, not guilty. Bishop of Oxford, guilty. Bishop of Peterborough, guilty. Bishop of Ely, guilty. Bishop of Sarum, guilty. Bishop of Rocbester, not guilty. Bishop of Durham, not guilty. Bishop of London, not guilty. Lord Viscount Weymouth, not guilty. Lord Viscount Say and Seal, not guilty. Earl of Isla. guilty, arl of Glaffow, guilty. arl of Roseberrie, guilty. Carl of Seafield, guilty. Carl of Orkney, guilty. arl of Northesk, not guilty. Earl of Leven, guilty. arl of Wymess, not guilty.

Larl of Loudoun, guilty.

that

S, as

fome

the

and

well,

epton,

carf.

משניו,

outh,

Quef. Not

e vo.

upon d to

e Was

right

hing

ote it

ould

poq

ote,

Ser-

Lord

y the

ons,

alfo

affed

and

g to

ld be

. Sa.

y.

y.

у.

rilty.

Lord

Earl of Marr, not guilty. Anno o Anna Earl of Crawford, guilty. Earl of Chotmondeley, guilty. Earl of Poulett, not guilty. Earl of Wharton, guilty. Earl of Greenwich, guilty. Earl of Grantham, guilty. Earl of Ferfey, not guilty. Earl of Orford, guilty. Earl of Bradford, guilty. Earl of Warrington, guilty. Earl of Scarborough, not guil. Earl of Portland, guilty. Earl of Plymouth, not guilty. Earl of Holderness, guilty. Earl of Abington, not guilty. Earl of Rochester, not guilty. Earl of Nottingham, not guilty. Earl of Berkley, guilty. Earl of Yarmouth, not guilty. Earl of Radnor, guilty. Earl of Suffex, not guilty. Earl of Carlifle, guilty. Earl of Anglesea, not guilty. Earl of Scarfdale, not guilty. Earl of Sunderland, guilty. Earl of Thanet, not guilty. Earl of Winchelfea, guilty. Earl of Stamford, guilty. Earl Rivers, guilty. Earl of Berkshire, not guilty. Earl of Manchester, guilty. Earl of Westmoreland, guilty, Farl of Denbigb, not guilty. Earl of Northampton, not guil. Earl of Leicester, guilty. Earl of Bridgewater, guilty. Earl of Dorfet and Middle. fex, guilty. Earl of Lincoln, guilty. Earl of Pembroke, not guilty. Earl of Derby, guilty. Marquis of Darchester, guilty. Lord Chamberlain of the Houshold, guilty. Duke of Dover, guilty. Duke of Roxborough, guilty. Duke

1709-10.

Alterations at

Court.

Anno o Annæ, Duke of Montrofs, guilty. Duke Hamilton, not guilty. Duke of Buckinghamshire, not guilty.

Duke of Bedford, guilty. Duke of Leeds, not guilty. Duke of Shrewfbury, not guil. Duke of Schomberg, guilty. Duke of Bolton, guilty. Duke of St. Albans, guilty. Duke of Northumberland, not guilty.

Duke of Beaufort, not guilty, Duke of Ormand, not guilty, Duke of Grafton, guilty. Duke of Richmond, guilty. Duke of Cleaveland, and Southampton, guilty. Lord Steward, guilty. Lord Privy-Seal, guilty. Lord Prefident, guilty. Lord Treasurer, guilty. Archbishop of York, not guilt

Lord Chancellor, guilty.

April the 15th, The Queen came to the House and put a End to the Seffion with a Speech to both Houses, which in in CHANDLER's History, Anno 9 Annæ, 1710, Page 155. Immediately after the Rifing of the Parliament the Public

received the first Notice of an approaching Change of the Ministry, by the Queen's removing the Marquis of * Kar from being her Chamberlain, and appointed the Duked Shrewfoury in his Room; which Aiteration was followed by another of yet greater Importance, the Lord Dartmouth be ing made Secretary of State, June the 15th, in the Roomd the Earl of Sunderland. In August the Earl of Godolphin wa deprived of the Treasurer's Staff, and the following Person were appointed Commissioners of the Treasury in his Room, viz. the Rt. Hon. John Earl Poulett, Robert Harley, Etc. Sir Thomas Manfel, Bart. and Robert Benfon, Efg;

At the same time her Majesty appointed Robert Harly, Elg; Chancellor and Under-Treasurer of her Majelly's L. chequer, in the Room of John Smith, Efq; (who was after wards made one of the Tellers of the Exchecher,) as like

wife a Privy-Counfellor.

In September the Earl of Rochester was made President of the Council, it the Room of the Lord Somers; and the Dak of Buckingham and Normanby, Lord Steward of her Majely Houshold, in the Room of the Duke of Devonshire. An Henry St. John, Efq; Secretary of State, in the Room of Ma

Boyle, who refigned.

A new Parliament call'd.

And, Sept. the 26th, to perfect this throrough + Change the Queen ordered a Proclamation for calling a new Paris ment; and two other Proclamations for a public Thank giving on the 7th of November, both in England and Sa land, for the wonderful Courie of Success this Campaign, a particularly the glorious Victory in Spain.

* The Marquis was some Days after created a Duke.

+ The Duke of Ormond was likewise made Lord Lieutenant of Ireland in the Room of the Earl of Wharton; and Sir Simon Harcourt, Los Keeper: Lord Cowper having refigned the Seals.

In February the Duke of Marlborough, at the Instance of Anno 9 Annæ, both Houses, had been dispatched to Holland; but tho' the Conferences at Gertruydenbergh for a general Peace were renewed in March, and the Campaign was not opened till April, his Affairs abroad. Grace never affisted in Person. All was lest to the Management of the States; (tho' the Minister of the Emperor could never be brought to give his Allowance to so great a Piece of Considence,) and tho' we were made Principals in carrying on the War, nay, had the labouring Oar put upon us by the whole Consederacy, as was more than once consessed by Lord Godolphin himself, we were now content to act, or rather to look on, as no way concerned in the Conclusion of it.

The French, however, were become so sick of their ambitious Projects, and so humbled with their repeated ill Successes, that they readily gave up Spain and the West Indies, the Point we principally contended for, to King Charles; and reserved only Sicily for King Philip. They moreover offered an annual Subsidy to the Allies, till the Spaniards should be sorced to come into this Partition; and only insisted that when the Treaty came on, no other Demands should be made upon them, than were contained in the Preliminaries: But the Dutch, now in the Meridian of their Greatness, were pleased both to put a Negative on the last Proposal, and to results the annual Subsidy; upon which the Negociations were again broke off; and the Court of France sent a sort of Manisesto to the great Pensioner, in which they threw all the Blame of the Rupture upon the Dutch.

Europe was now to bleed anew; accordingly, in April, the Confederates enter'd the French Lines at Pont-a-werden, and invested Doway; which, June the 27th, was surrender'd to them, with the Loss of 2142 Men killed, and 5865 wounded: Of which, of the English 570 were killed and 1339

wounded; in all, 8007 killed and wounded.

In July they invested Bethune, and reduced it in August. St Venant had the same Fate in September, and Aire in October; but with the Loss of as many Men to the Consederates

as they loft at Doway.

pilty

uilty,

ilty.

and

y.

y.

guilt.

y.

out at

ch fee

55. Public of the

Kent |

ike d

ed by

th be

om d

in Wa

erfors

Room,

E/g

Tarly,

s Ex

after-

s like

ent d

Duke

jestyt.

And

of Ma

hange

Parlia

hank

Scal

n, au

reland

Led

In Spain the Battle at Almenara, near Lerida, was fought, July the 27th: In which the Enemy's whole Cavalry was routed, and 1500 private Soldiers killed and wounded. After this King Charles takes Balbastro, Huesca, together with some other Places in Arragon; and August the 20th, N.S. he gain'd au entire Victory over the Spaniards, and enter'd Saragossa.

Notwithstanding which the Year ended fatally, eight English Batallions and as many Squadrons being taken Prisoners in Bribuega; and the next Day the Battle at Villa-viciosa was fought, with almost equal Lose, though the Spainards claim'd the Victory.

Atino 9 Anna,

The Third Parliament of + GREAT BRITAIN

ET at Westminster, November the 25th, 1710, and the Commons having chose their Speaker, her Majesty, the 27th, opened the Session with a Speech to both Houses, which see in Chandler's History, Anno 9 Annæ, 1710, Page 169.

November the 28th, the Lords agreed upon an Address the Queen, which they presented the next Day, being as

follows:

The Lords Ad- 6

E your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament assembled, present our humble and hearty Thanks for your Majesty's most gracious and excellent Speech at the opening this Parliament, and particularly for the great Confidence your Majesty is pleased to place in the Duty and Affection of your Subjects.

We conceive it to be of the highest Importance, to carry
on the War with Vigour in all its Parts, and particularly

in Spain, in order to procure a fafe and honourable Peac; and your Majesty may be affured, we shall concur in all re-

fonable Measures to that End; and we humbly hope you

Majesty's great Example will engage all your Allies to join with your Majesty, in doing their utmost to the same Pur-

of pose.
We have the Happiness to agree entirely with your Ma

jesty, in the several Resolutions you have declared so plainly and affectionately to your Parliament: and we think

ourselves obliged to repeat our Thanks for your Majesty's great Care to transmit the Blessings of your Reign to Poster

rity, by securing the Protestant Succession in the House of

· Hanover.

We cannot also but have a particular Satisfaction, in the Assurances your Majesty has given to maintain and encountries.

† The fixteen Scottish Peers returned to this Parliament were as follow, viz. Duke of Hamilton, Duke of * Atholl, Marquis of * Annabdale, Earl * Marshal, Earl * Eglintoun, Earl of Marr, Earl of Loudoun, Earl of * Hume, Earl of * Kinnoule, Earl of Northesk, Earl of Orkos, Earl of Roseberrie, Earl of Isla, Viscount * Kilsythe, Lord * Balmerins, Lord * Blantyre.

The Nine marked with *, were not of the last Parliament, but were chosen instead of the Nine following, viz. Duke of Montross, Duked Roxborough, Marquis of Lothian, Earl of Crawfurd, Earl of Rothes, Earl of Wymes, Earl of Leven, Earl of Seaford, Earl of Glasgow.

rage the Church of England as by Law established, which Anno 9 Anna, is the first Support of the Monarchy, and the strongest De-

fence against Popery.

础

AT

, and

her

rith a

iftory,

refs to

ing as

ts, the

iffem-

r Ma.

ening dence

ection

Carry

plarly eace;

rea.

your

o join

Pur-

Ma-

plain-

think

efty's

Potte-

ale of

in the

ncou-

rage

as fol-

nnan-

udous,

rkney, erino,

t were

uke d

lothes,

We have no more to add, but that we shall carefully endeavour, in all our Consultations, to proceed with that Unanimity and Dispatch, as may give the greatest Weight to them; and to assure your Majesty, that nothing shall be wanting, on our Part, to fatisfy the World, that with an unshaken Zeal we will constantly defend your Majesty's Royal Person, Honour and Dignity, on which our Safety and Happiness so much depend.

To this Address, the Queen returned the following Answer:

My Lords,

AM very glad to find I have your Concurrence in the Queen's An-Resolutions I declared to you, and give you Thanks swer, for this Address, so full of Affection to me, and Zeal for " the Public Good."

On the same Day the Address was voted, the Earl of Scarbrough having made a Motion, that the Thanks of the Earl of Scarbo-House be returned to the Duke, some Objections were raised rough's Motion against it; and his Grace's Friends being apprehensive, that for returning if the Question were put upon it, the Negative might carry Duke of Marlt, faid, it would be Time enough to speak of that Matter borough dropwhen the Duke was come Home; whereupon the House ped. was adjourned. The next Day there was a Complaint made by a noble Peer, against the Lord Keeper, for taking upon him to introduce the Scotch Lords to the Queen, being himself no Peer by Patent: But the Lord Keeper excusing his Mistake, if he had committed any, with a great deal of Modely; and on the other hand, the late Lord Chancellor Lord Cowper. maintaining that he had Right to act as he had done, no farther Notice was taken of it.

January the 2d, The Queen having, by Message, communi. The Missortune tated the Advices she had received of the * Missortune be- at Brihuega fallen the British Troops in Spain, their Lordships presented communicated the following Address to her Majesty:

the following Address to her Majesty:

7 E, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament assembled, return our most humble Thanks to your Mrjelly for your gracious Message relating to the present State of Affairs in Spain, and for the Orders your Majesty has been pleased to give, for sending Troops of your own, and exciting your Allies to fend some of theirs, in due time, in order to repair this Loss. And as this Misfortune may have been occasioned by some preceding Mismanagement, 17:0 11. At Brih uega under General Stankope.

Address

1710-11.

Anno o Anna, ' we take the Liberty to affure your Majesty, we will nie one utmost Endeavours to discover it, so as to prevent the like for the future.

And fuch is the Confidence we have in your Majefty's great Prudence and Care, that we humbly affure your Ma. iefly, we will, to the utmost, give all the Affistance in our

Power, to recover the ill Condition of those Affairs, and to ' Support the War against the common Enemy in all Place where your Majesty, in your Wisdom, shall think it neces.

fary, for the obtaining an honourable and lasting Peace, in concluding of which, we entirely rely upon your Majefty!

To which Address her Majesty returned this Answer.

Queen's Anfwer.

HAT her Majesty took very kindly the Address of this House, and doth not doubt of the Lords " hearty Concurrence in supporting a War of so great Im-" portance as this is."

Debate on the fort.

The Lords having refolved to enquire into the Manager Affairs of Spain, ment of Affairs in Spain, their Lordships, on the 4th of Ja Dake of Beau- nuary, upon a Motion made by the Duke of Beaufort, made Application to the Queen to stay, for some Days, the Earl of Peterborough's Journey to Vienna, that they might make Use of such Lights and Informations as he was able to give them, concerning those Affairs. Accordingly the Earl of Peterborough, who defigned to have fet out the next Day. having for that Purpole fent Part of his Servants and his Equipage to Greenwich, was countermanded; and the Pen having, on the 5th, taken the Affairs of Spain into Confe deration, the Earl of Abingdon, Chairman of the Committee of the whole House, put severally five Questions to the Earl of Peterborough; to which his Lordship returned distinct Anfwers, containing the Substance of the Facts and Passagu published, some Years before, by Dr. Friend, a Physician, who attended his Lordship in Spain, in a Book, entitled, At Account of the Earl of Peterborough's Conduct, &c. whereil his Lordfhip's Management is jullified and highly extolled; not without some Reflections on the Conduct of the other Generals in Spain and Portugal, particularly, the Earl of Galway's. After this, the Lords ordered the Earl of Gal way, and the Lord Tyrawley, (formerly known under the Name of Sir Charles o Hara) to appear before them the next Day, which they did accordingly; and the first having a Chair appointed for him without the Bar, by Realond his Infirmities, was defired by the Chairman to give the Lords an Account of what he knew concerning the Affain

Earl of Galway of Spain. The Earl of Galway having excused his Defici examined.

e one

like

efty's

Ma-

n our

nd to

laces

ecef-

e, in

efty.

drefs

ords

Im-

lage.

Ja.

Earl

nake

give rl of

Day,

his

eers

onfi

ittee

Earl

An-

ages

120,

An

reit

led; ther

l of

Gal

the

the

ving n of

the

ain

fici-

HEY

ency in not expressing himself so properly as he could wish Anno 9 Anna, in the English Tongue, gave the Lords an ingenuous Account of his Conduct, from his first fetting out for Portugal, till the Time he was recalled; with which their Lordships appeared to be well fatisfied: And as he faid, his Memory might have failed him in feveral important Particulars, he defired that he might be allowed to give in Writing, what he had delivered by Word of Mouth, which was readily granted.

As for the Lord Tyrawley, being defired to fay what he And Lord Tyknew about the same Affairs, and not knowing the Drift of rawley. fuch an Enquiry, but rather suspecting his own Reputation might be concerned, his Lordship stood upon the Reserve, and faid, 'That when he was in the Army he kept no Register, and carried neither Pen nor Ink about him, but only a Sword, which he used the best he could upon Occasion; and that all he knew, in general, was, that they always acted according

to the Resolutions of the Councils of War.'

The Lords Galway and Tyrawley being withdrawn, feve The Earls of ral Peers, particularly the Earls of Wharton and Godolphin, Wharton and the Lord Hallifax and some others, spoke in savour of my Godolphin, Ld, the Lord Hallifax and some others, spoke in lavor Marlbe-Hallifax, and Lord Galway; and among the rest, the Duke of Marlbe-the Duke of rough faid, 'That it was somewhat strange, that Generals Marlborough, who had acted to the best of their Understandings, and had lost their Limbs in the Service, should be examined like Offenders, about infignificant Things.' After a small Debate, the Lords adjourned to the Monday following, when the Earl of Galway delivered his Narrative in Writing, as did also the Earl of Peterborough the Recapitulation of his Answers, with feveral other Papers.

Jan. the 9th, The House of Peers being sat, in order to The Debate rerefume the Confideration of the Affairs of Spain, the Duke of fumed. Devonshire moved that Dr. Friend might be summoned to at- Duke of Devontend, which was ordered. There being a great many Stran-shire, Earl of gers in the House, the Earl of Godolphin moved, That the Godolphin, House might be cleared: But the Duke of Buckingham op- ingham. posed it, saying, That he supposed those Strangers were brought in by the Members themselves, and therefore were under the Protection of the House; that it might afterwards be moved, that the Lords eldest Sons should also go out, tho' they had as much Right to stand behind the Throne, as the Lords to fit where they fat; that he had, himself, enjoyed that Privilege, and wished himself to be young enough to be amongst them. Hereupon it was carried, that the Strangers that had been placed in the Gallery, should be suffered

The Preliminary about Strangers being over, the Duke

1710-11.

Duke of Brake

Anno 9 Annæ, of Buckingham faid, he hoped that Bufiness would not the 1710-11.

Duke of Buckingham Earl of Scarborough.

Earl of Whar-

Earl of Peterborough.

up so much of their Time as it had done two or three Yeah before: Upon which the Earl of Scarborough faid, That the principal Point which they ought to take into their Confide. ration, and strictly examine into, were the Council of War held in Valencia, the 15th of January, 1707, N. S. and the joining of the Troops brought by the Earl of River, with those under the Command of the Earl of Galwai After this the Earl of Wharton moved, whether the Earl of Galway's Memorial should be read in the House, or in the Barl of Ferrers. Committee; and the Earl Ferrers faying, It was more proper to read it in the Committee; it was agreed it should be fo ; and the Earl of Peterborough having defired, that his Recapitulation might also be read in the Committee, the fame was granted. After this the House adjourned during pleasure, and resolved into a Committee of the whole House of which the Earl of Abingdon was chosen Chairman, as before.

The Queen to the House of Duke of Buckingham.

Earl of Peterborough.

Lord Cowper.

Larl of Peterborough.

The Earl of

rative.

Galway's Nar-

It being known that the Queen defired to hear this me comes i cognito morable Debate incognito, the same did not begin till he Majesty was come, that is, about a Quarter past I wo in the Afternoon. Hereupon the Dake of Buckingham moved, that the Earl of Galway's Paper might be read; and the Chairman having ordered the Clerk to read it accordingly, the Earl of Peterborough renewed the Inflances he had made before, that the Lord Galway might be asked some Questions, and that he and the Lord Tyrawley might be called in: But the Lord Cowfer faid, it that was not proper to afk the Lord Galway any Quettions, till the Earl of Peterborough's Name tive had been read in his Presence, which was agreed to Hereupon the Earl of Peterborough faid, that to avoid all Mistakes, he defired his Paper might not be called a Natrative, which might look like an Accufation, for he atcused no body; but only a Recapitulation of his Answer. After this the Clerk read the Earl of Galway's Narrative, being as follows:

> IN Obedience to your Lordships Commands, I present you with a short Narrative in Writing, containing the molt material Occurrences that happened in Portugal and Spain, during the Time I had the Honour to command the Queen's Troops there.

> In June, 1704, being retired in the Country, In ceived the Queen's Commands to attend her Majeffy at Wink for, where she was pleased to order me to go and take upon me the Command of her Troops in Portugal. I defired to be excused from accepting an Employment which I did and

think

think myself equal to, but the Queen seeming fixed in her Anno 9 Anne, Resolution, I obeyed.

Spain and Portugal already marching for Abeira, and joined their Rout. But the Season was much advanced, and it being thought impracticable to attack the Enemy there, it

was foon resolved to retire into Winter-Quarters.

take

Year

t the

rfide. War

and veri,

lewaj.

arl of

n the

pro-

t his

, the

uring oule,

man,

me-

l her

n the oved,

d the

ngly,

made

tions,

: But

Lord

arra-

d to.

d all

Nar-

e ac-

wers.

ative,

refent

g the l and

d the

I re-

Vind-

upon

ed to

d not

hink

The Troops being in Quarters, I went to Liston, where I had certain Advice that Gibraltar was befieged, and Mareschal Thesse gone thither; upon which, considering the Importance of the Place, I immediately sent to the Prince of Hesse (Governor there) sour of the best Regiments of Foot under my Command, viz. the Batallion of Guards, my Lord Barrimore's, Lord Donnegall's, and Lord Montjoy's; together with a large Supply of Ammunition and Provisions, which the Garrison wanted extremely. This Relief arrived in good Time, and proved so successful, as not only to defend the Place, but to hold out a Siege that entirely ruined the Enemy's Insantry, and prevented their being able to take the Field the following Spring in Alentejo.

Being informed of their Condition, as likewise that there was but a very small Garrison in Badajox, I endeavoured to persuade the Portuguese to attack that Place, but could not then prevail; however, they took Valencia de Alcantara by Storm, and Albuquerque by Capitulation, under the Command of the Conde das Galweas, and afterwards retired to Quarters of Refreshment, as is usual in the ex-

cessive Heats of the Summer.

During this Interval I went to Lifton to confer with the Earl of Peterborough. I found the King of Spain defigned to embark with him; and not doubting but the Earl was bound upon some important Expedition, tho' I had no Orders to that Purpose, and had now only one Regiment of Horse, two of Dragoons, and five of Foot left under my Command in Portugal, I offered him whatever Part of these Troops The Earl accepted of my Offer, and he pleased to desire. chose the Royal Regiment of Dragoons, and Cunningham's, taking likewise an Order with him from me to the Governor of Gibraltar, for such Regiments from thence as he should think fit to take on board, leaving only a sufficient Garriion for the Defence of the Town, and accordingly his Lordthip took from thence those four Regiments, which I had fent thither to the Relief of the Place.

After the King of Spain and my Lord Peterborough were failed, with great Difficulty I prevailed upon the Portuguese to besiege Badajox in Autumn; but, instead of taking the Field, as we had agreed to do, in the beginning of Sep-

ember

2710-II.

og Anne, tember, it was the second of October before I could get the to invest the Place, under the Command of the Marquis du Minas. Our Cannon had already begun to play, with Suc. cess, when an Accident happened in a Battery, which I wee to repair; and, being there to give the necessary Orden for that Purpose, I lost my Arm by a Cannon-Shot from the Town; but it is the general Opinion, that if the Deposition which I put in Writing, the very Morning the Missortune happened to me, and proposed to a Council of War, where the same was agreed to, had been duly exe. cuted. Mareschal Thesse could never have relieved the Place which must necessarily have fallen into our Hands in a very few Days.

> Not long after the Seige was raised, News came of the Surrender of Barcelona to King Charles, and about a Month after, that Mareschal Theffe had marched with the best Par of the Forces, quartered on the Frontier of Portugal, in or. der to join the Duke of Anjou, and besiege Barcelona again,

"Upon this I resolved to propose to the Portuguese w march to Madrid, concluding, that either the Duke of Am would, by this Means, be obliged to quit the Siege of Bar. celona, or else that we could meet with no Opposition in our · Way. For this purpose I took a Journey to Liston, era while my Wound, upon the cutting off my Arm, was fill open, and had fuch Success with the King of Portugal, that his Troops took the Field the following Spring, by the 26th of March, N. S. under the Command of the Marqui das Minas, with Intention to besiege Alcantara, and march that way to Madrid. Mean time the Duke of Berwid, who had been fent to command on the Frontier of Portugal in Mareschal Thesse's stead, had thrown ten Regiments of For into Badajox, and marched with feven more, and a Body of 4000 Horse towards Alcantara, in order to reinforce that Garrison, by the Addition of those seven Regiments, which he accordingly left there, and then came back to Brus with his Cavalry; where we surprized him, beat his Reaguard, purfued him a confiderable Way, and took Possessia of the Castle of Brocas; in which Place we left a Garrison to cover our Foragers, during the Time that we should it before Alcantara.

After this, we continued our March to Alcantara, which furrendered to us in a very few Days; we took ten god Batallions Prisoners of War there, and found about fun Pieces of Cannon in the Place, with great Store of Small-Arm and Ammunition.

Afte the Surrender of Alcantara, we croffed the Tagu there, and having taken in some Places of small Note upon March, and forced a Pass at Massagona, where the Ene- Anno 9 An ny had entrenched themselves, we advanced as far as the

Bridge of Almaras.

then s das

Suc-

went Irden

from e De.

g the

cil of exe.

Place,

very

f the

1onth

Part Part n or-

gain,

refe to

Anjus Bar-

in our

ever

s fil

tugal,

y the

rquis

narch

wick,

rtugal

FFoot

dy of

: that

which

Brocas

Rear-

Teffion

rrifoa

ld lie

which

good fixty

Arms

Tagu

upon

011

But here the Portuguese resolved unanimously to return Home again, notwithstanding all the Arguments the Geneals of the Allies could offer to the contrary, which happend very unfortunately ; for had the Army marched directly rom thence to Madrid, in all probability, we must have arived there at the same time with the News of the Duke of Anjou's being returned to France; the Dutchess must have een obliged to escape alone; and the Tribunals being still here, it is very likely the War would have been over.

Some of the Portuguese were willing to go back and belege Badajox, which was entirely laying afide all Thoughts of Madrid, but others were for attacking Cavidad Rodrigo. and by joining with these, I engaged them, after the taking of that Place, to go to Madrid. But the Time, which was off on this Occasion, had given the Duke of Anjou an Opporunity of returning from France to Madrid, from whence he withdrew the Court, and all the Tribunals, before our Army could reach that Place; fo, upon our Arrival there, we found Madrid an open Village; and the Troops having been exremely weakened by so long a March, were not above 4000 Horse, and 8 or 10000 Foot.

'The Portuguese Generals, and those of the Allies, thought it highly necessary the King of Spain should come to Madrid, as foon as possible; for besides the Advantage his Presence might have been to his own Affairs, it was of the last Importance to us to be immediately joined by the Forces with the King, and under the Earl of Peterborough's Command; not being strong enough, without them, to attack the Duke of Anjou; who had already received fome Succours from France, besides the 5500 Horse, and 8000 Foot, of which the Duke of Berwick's Army confifted, after he had

been joined by the Conde de la Torres.

'Being perfectly informed of the Enemy's Strength and Motions, and having great Reasons to believe that if we were joined in time by all the Forces with the King and the Earl of Peterborough, we might, in this favourable Conjuncture, drive the Duke of Anjon entirely out of Spain, make ourselves absolute Masters of that Kingdom, and put an End to an expensive War: All the while we lay at Madrid and Guadalazara I dispatched every Day one or more Expresses, and the greatest Part of them Officers, with Letters to the King of Spain, and to my Lord Peterborough, representing to them both the Importance of our being joined forthwith, and earnestly desiring that no Time might be lost in improving so critical a Juncture. · As

Anno 9 Annæ;

As the next best Means to advise our Friends of our Arrival at Madrid, the first Gazette Day, after we got this ther, I caused it to be published in the Gazette, that we were there, and expected, in a very few Days, to be joined by the King and the Earl of Peterborough, hoping that the natural Curiosity of the Spaniards would give a printed Newspaper a free Passage.

But, notwithstanding all the Diligence that was used in this Matter, on our Part, near six Weeks were elapsed a Madrid and Guadalaxara, before we received any Advice that the King was upon his March to join us; and, in the mean time, the Duke of Anjou's Army was so much increased by daily Reinsorcements from several Parts, that he was now become superior in Number to us, even after we were joined by those Forces which the King and my Lord Peterborough brought along with them.

And I must say, that it is the general Opinion, and I do verily believe, as the Portuguese lost one sair Opportunity of putting an end to the War, by not marching directly from the Bridge of Almaras to Madrid, so we now lost another, for want of being joined in time by the Forces under the Command of the King of Spain and the Earl of Peterborough.

And, whereas the noble Lord is pleased to aver, That he never received any Advice from me, of my Arrival at Madrid with the Portuguese; and, as an Argument of my Neglect of him on that Subject, produces an Instance of one Officer, that happened to pass through his Quarters with Letters from me to the King, and none for his Lordhip; I am obliged to observe, that I gave this Officer an hundred Pistoles, and ordered him to go directly to the King of Spain, who then lay at Saragossa; but he was accidentally forced to go out of his Way, to avoid one of the Enemy's Partie, which was the true Occasion of his passing through the Earl of Peterborough's Quarters at Valencia, contrary to his first Intention. But several other Officers, who were dispatched by me to the Earl, affured me they had the Honour to deliver him those Letters which I wrote to his Lordship from Guadalaxara: And even taking the Fact to be as the Earl of Peterborough is pleased to state it himself, it is plain his Lordship had, at least, some verbal Informations from that very Officer who passed through his Lordship's Quarters, and confequently could not be altogether ignorant, either of the Place where the Portuguese Army lay, or of the Necessity of joining them, without Loss of Time.

After the General had got King Charles proclaimed a Madrid, it was thought fit to advance to Guadalaxara; where he had, at last, Advice, that the King was coming

to join us, and at the same time were informed, that the Duke Anno 9 Annæ, of Anjan was at Guadalaxara, to which Place we marched to prevent the Enemy from intercepting the King. our Approach, the Duke of Anjou repassed the River, which little Advantage we contented ourselves with, for it was not thought adviseable to follow, and attack him on the other Side, being advantageously posted, and stronger than we.

1710-II.

We stayed here two Days, and when we thought the King was out of Danger, we again retired to Guadalaxara, where we were joined by his Majesty and my Lord Peterborough, with two Regiments of Spanish Dragoons, and Part of Pearce's, for his Lordship had lest behind him, in several Places, thirteen Batallions of English Foot, with the Remainder of Pearce's, and two other entire Regiments of Dra-

t thi

t we

oined

t the

lews-

ed in

ed at

dvice

n the

h in.

at he

er we Lord

and I

ortu-

really ano-

er the

ough.

That

ral at

f my

f one

with

hip;

adred

pain,

orced

rties,

Earl

firft

tched

o de-

from

Earl

n his

that

, and

f the

ity of

ed at

ara; ming

10

So foon as the Armies were joined (having, upon my Arrival at Madrid, fent Captain Montague to give the Queen an Account of our March, and to defire her Majesty's Leave to retire) I waited upon my Lord Peterborough, offering him the Command of the English, and to receive his Orders, till I should have the Queen's Leave to go Home: But because the Marquis das Minas would not do to too, my Lord Peterberough chose not to stay with the Army, and within a few Days after went away.

'The King resolved, by Advice of the General Officers, to go to Chincon, where all Things necessary for the Army were found in great Plenty: But the Season being far advanced, a Council was held about taking Winter Quarters, where it was agreed to be by no means fafe to canton on that Side the Tagus, for fear of losing all Communication with the Sea; befides, the Country was fo open, the Troops

could not be divided without Danger.

For these Reasons, after having stayed at Chincon about three Weeks, tho' the Army had Forage and Provisions for as many more, it was agreed forthwith to cross the Tagus, lest the approaching Rains should render the Fords impracticable; nor was there a Possibility of taking Winter Quarters to commodiously as in the Kingdom of Valencia, where the Situation of the Country rendered us secure against any Attempts from a superior Army.

' This Resolution was put in Practice, and we made our Retreat in good order, notwithstanding all the Interruption the Enemy were able to give us, and were obliged at Yniesta

to cross the River in Sight of all their Cavalry.

Whilft the Army was in Quarters, my Lord Peterborough came back from Italy; and whereas it has been fuggested, that his Lordship did then demand from me 5000 1710-11. Pp Men, 1710-11.

Anno 9 Annæ, Men, for some Expedition on the Side of Catalonia. which were refused; I must declare I do not remember that the Earl ever applied himself to me, in particular, upon that Subject; if he had, the Answer must naturally have been, that the Matter depended not upon me to grant, or refule. but upon the King of Spain, under whose Command I was,

But I do remember the Earl proposed this at some gene. ral Council, or Council of War, held in the King's Prefence, about the Operations of the ensuing Campaign, and joined with those that were of Opinion, that it was by no means convenient to divide the Troops, as may appear by Copy of that Opinion figned by my Lord Tyrawley, and by me, bearing Date the 15th Day of January, 1706.7. But I must beg Leave to observe, that was not the decisive Council for the Operations of the Campaign, for many suble. quent Councils were held in the King's Presence, more inportant than this; and tho' in them there might have been fome Variety of Opinions as to the Manner, yet almost all the Generals and Ministers that affished at those Councils, a greed perfectly in the Substance, which was, That we should join our Troops and march to Madrid: Some indeed, were for passing thro' the Plains of the Mancha, and crossing the Tagus; but this Opinion was over-ruled, because of the Hazard in passing the River if the Enemy opposed us, and of the Scarcity of Provisions in the Mancha, which had been exhausted by the Enemy's Winter Quarters; for which Reasons it was, after many Debates, agreed, That we should take the Way of Valencia and Arragon, passing the Tagust its Head, to avoid all Opposition. But lest the Kingdom of Valencia might, by this means, be any ways exposed, it was likewise resolved, before we should begin our March, to destroy all the Enemy's Magazines of Provisions and Forage, in the Country bordering upon the Frontier of Valencia, to prevent them from making Incursions: And I do take upon me to aver, that nothing was ever transacted, during the Time I had the Honour to command the Queen's Troops, contrary to the positive Resolution of any General Council, or Council of War, unless that Resolution was afterward repealed by some subsequent Council.

So fenfible was every one of our being already too weak, it was resolved to desire my Lord Rivers (who was lately arrived at Lifton) would join us with the Troops that came under his Command from England, which his Lordship did,

not long after.

For the better Execution of what had been resolved for our March thro' Valencia and Arragon, proper Commiffarie and Officers were dispatched to provide Bread and Forage

fusicient for the Troops, in all Places where it was defigned Anno 9 Annæ, the Army should pass. I went with the Marquis das Minas to the Frontiers, towards the latter end of March, and we took the Field the beginning of April: We ruined Part of the Country bordering upon the Frontiers of Valencia, before the Enemy could join their Troops, particular Yecla, where they had their largest Magazines; and judging it necessary to take in the Castle of Valencia, to prevent their Army from being Masters of one of the most considerable Inlets into the Kingdom of Valencia, sat down before that Place; but it proved stronger than was expected, and after we had spent some Days there, we had Notice the Enemy

had affembled their Troops at Almanza.

hich

the

that

been,

efule,

was. gene-

Pre-

and

y no

by a

nd by

Coun-

uble-

e im-

been

ft all

ls, a.

hould

were

g the

the

and

had

hich

hould

us at

m of

Was

o de-

e, in

pre-

apon

the

ops,

incil,

vards

reak,

ately

came

did,

d for

aries

rage

cient

' Upon this Advice, a Council of War was held, where it was unanimously resolved to fight the Enemy, which we were the rather induced to, because it was judged impossible to subsist upon the Defensive in the Kingdom of Valencia; for the Country had already been so much exhausted by our Winter-Quarters, that there was not two Days Provision to be found for the Army, and we could not have been able to have subsisted there so long as we did, but for the Supply we found in the Enemy's Magazines at Yecla: Nor did we think it proper to purfue the once intended March through that Kingdom and Arragon, lest Provisions should be wanting, leaving the Enemy so near, and in a Condition to follow us; for tho' Commissaries had been employed, there was Reason to apprehend, the Towns we were to pass through would shut their Gates against us, whilst we were closely followed by the Enemy, and perfecuted by the Peasants of the Country, who, grown desperate by seeing themselves abandoned, would naturally be up in Arms in the Mountains. Besides, we had certain Advice that there was already a Body of French Troops, confishing of 8000 Men in Spain, and upon their March to reinforce the Enemy. the Army must inevitably have perished, without fighting, it was thought reasonable to run the Hazard of a Battle, wherein we had an equal Chance to come off Victors; which was accordingly done two Days after, on the 25th of April, 1707, N.S. but with ill Success.

The Cavalry of the Allies, with some small Part of the Foot that had escaped the ill Fate of the Day, joined again at Akira, from whence they retired to Tortosa; and, sinding the Enemy had crossed the Ebro, endeavoured, by opposing their Passage over the Chinca, to amuse them till the latter end of the Campaign. Mean time, with great Expedition, I gathered the broken Remains of the Foot, (out of which I formed sive Batallions, and raised sour more of Catalans,

Ppz

1710-II.

Anno 9 Annæ, with which we made a Stand against a victorious Enemy, and preserved the Principality of Catalonia entire, excepting Lerida. After the taking of which Place, the Enemy thought fit to retire to Winter-Quarters, and we did the same.

In February following the Marquis das Minas, with most of the Portuguese Generals, embarked for Lisbon; and having the Queen's Leave to do fo too, I visited the several Quarters where the Troops in her Majesty's Pay, were lodged; and, having left the necessary Orders with Majors Generals. Carpenter and Wills, for their Government in my Absence,

took the same Opportunity of going thither.

Upon my Arrival in Portugal, I found the Queen's Or. ders there, to take upon me the Characters of Ambassador Extraordinary, Plenipotentiary, and General of her Forces; which Charges I accepted in Obedience to her Majefly; the I had nothing fo much at Heart, as the Pleasure of return. ing to that Retirement, from whence, only the Queen's posttive Command could have drawn me.'

Earl of Rochefphin.

Earl of Peterborough, and his Lordship's Anfwers.

After the reading of this Paper, the Earl of Rocheffer moved, That the Lord Galway should be asked, whether he Earl of Godol- had any thing to add to it? Whereupon the Earl of Godol. phin faid, That the Earl of Peterborough's Narrative ought to be read before-hand, in his Presence. The Earl of Galun and the Lord Tyravely being called in, the Clerk read the The five Quef- five Questions that were put the Friday before to the Earlof tions put to the Peterborough, with his Lordship's Answers, separately.

FIRST QUESTION.

That the Earl of Peterborough be defired to acquaint the Committee how he was supported with Men and Morey, during the Time he commanded in Spain, and what Applications he made for either, and to whom?

ANSWER.

To the first Question he was pleased to answer, That the Management of the War in Spain, when under the Condad of other Generals, was not only supported by great Numbers of Men, and vast Sums of Money, but also with no torious Falshoods, published in their Favour, to excuse their repeated Difgraces; whereas his Lordship was not supported as the Service required, with either Men or Money; but had his Conduct traduced; notwithstanding his constant Successes, by Multitudes of Representations and Suggestions to his Prejudice; all of them detected to be false, before your Lot ships, on the Evidence lying before the House, or in his Hands to prove them fo, whenever his Lordship should ! allowed the Opportunity. That That he had no Reinforcements of Men till three or four Anno 9 AnnoDays before the French raised the Siege of Barcelona; that
Mr. Stanbope, who came with those Forces, in his Letter
epresents them, as far short, in his Opinion, of what the
Occasion required; and that he received no Money from
England, till his coming back to Valencia, after that Siege,
and that little Sum was out of his Lordship's Power to make
see of, the Pay-masser, for above a Month, disputing to
ssue it, by his Lordship's Orders, as appears by Proofs upon
Outh in this House.

That the Troops he brought there did not amount to

25000.

and

Le-

ught

moft

ving

uar.

ged;

rals,

nce,

Or-

ces;

tho'

pcfi-

befler

er he

odol-

ht to

leway

the

riof

t the

r.ey,

Ap-

t the

dad

um-

no-

beit

rted'

hid.

ffes,

Pre-

ord-

d be

Tiat

That no one Regiment was provided with the least Equinge; no Mule, nor Horse; no Carriage for the Troops, for any Beaft of Draught for the Artillery; no Magazines or Provisions for a March. His Lordship having taken and relieved Barcelona, drove 7000 Men with 3000; out of Valencia, and 25000 Men out of Spain, with the inconfidethe Forces he had, before he received one Penny from England. His Lordship said farther, he never had any Estabishment ordered, nor was allowed for Baggage-Money, Foage Money, or the Train of Artillery, till just about the I'me when the Command of the Forces was put into other Hands. His Lordship was pleased to say, he was forced to hist as well as he could, with what Money he had of his own, and could pick up and down the World, and was rewarded for his Pains and Services, with having his Bills protested, which he drew from Genoa, for Monies put on board her Majesty's Ships; for which her Captains were accountable to the Pay-master, and put out of the Earl's Power. That the Troops received the full Sum, without any Discount, tho' it was made use of by a Secretary of State, as one Motive for recalling his Lordship, that he had drawn the Bills at 25 per Cent. Discount. The Earl further took notice, that, tho' he wanted Money, and all Necessaries whatsoever, it was objected to him, that he did not immediately put the Troops in fuch a Condition into the Field, which was utterly impossible, for the aforesaid Reafons; and his Lordship affirmed, that a Merchant had stopped, and yet detained 1400 l. of his Lordship's Money in his Hands, for the Damages he pretended to have received by the protesting the Bills, which the Earl of Peterborough had drawn in his Favour.

His Lordship further observed, that some Lords had seemed unsatisfied upon this Head, tho', notwithstanding all those Difficulties, it appeared by the Oaths of all the Offi-

cers

1710-11.

Anno 9 Anne, cers examined in the House, that the Troops sent to the Siege of Requena went without Baggage, which Place was to be taken to make the Entrance into Caffile possible; and that all the Regiments begun their March, Regiment by Regi ment, the Moment they had their Mules delivered to then for the Equipage. His Lordship concluded this Head with observing what untrue Representations were made in favour of others, when, to excuse the fatal Battle of Almanza, a King was to be used at that Rate, as to have it in an Account pristed by Authority, declared, That he took Numbers amount ing to 4 or 5000 Men, from a Battle to be fought for his Crown; the very Regiments of Horse and Foot being mention. ed by Name; whereas it is notoriously known to the whole World, that he took only about two hundred miserable 8/14. nish Dragoons; and that of the Regiments mentioned to be taken away from the English General in Valencia, some of them were never in being; others were Regiments of Trained. Bands in Barcelona, and none of them within 250 Miles of the Place.

SECOND QUESTION.

That the Earl of Peterborough may acquaint the House of what he knows of the Earl of Galway's Proceedings during his Stay with the Army at Madrid, his March to Guadalaxare. and his Retreat to Valencia, and if he knows any thing of the Opposition made by the King of Spain, the Count Di Noyelles, and the Spanish Ministers and Generals to those Meafures?

ANSWER.

To the second Question the Earl was pleased to answer, That from the Time the Earl of Galway came first into Spain as far as Almaras, and thence returned back into Portugal, the Earl of Peterborough had no Advices from the Earl of Galuty, no Account of the Motives of that Retreat, nor any Hopes given him of the Return of the Portuguese into Spain. That, after the raising the Siege of Barcelona, and the Rettell of the French Army out of Catalonia, the Earl of Peterb rough received no Letter, or Message, from the Earl of Galway, after his second Entrance into Spain; nor had hethe least Notice of his Situation, Circumstances or Designs, ill he faw his Troops retreating from the Enemy to take the strong Camp of Guadalaxara, though the Marches of the King from Arragon, and those of the Earl of Peterborough from Valencia, were well known in the Portugal Camp. That two several Officers, sent by my Lord Galway, camen Valencia, and brought no Letters to the Earl of Peterborough e Siege

to be

Regi.

d with

favour

King

t prin.

lount.

or his

ntion.

whole

to be

me of

ained.

les of

ife of

xara,

ng of

nt Di

thole

wer,

pain

ugal,

ri of

any bain.

treat

erbo-

Gal-

the

till

the

the

mp.

e to

one

ne of them demanding Money for the Pursuit of his Jour- Anno 9 Annæ,

That as to the Persons who advised the King to go by Arragon, and not by Valencia, he knows no farther, (being at hat Time absent from his Majesty) but that having extremely opposed it, and having writ to the Secretary of State, at is first coming to Valencia, against it, he received an Anwer to this Purpose, That he hoped the Earl of Peterbough would bear the Mortification and Disappointment with atience, since the King was so resolved; and a Messenger by the appointed Token, known to be sent by the Lord Galway, had given notice, that the said Earl expected the King y the Way of Arragon, and had given to understand how very thing was prepared for his Reception that Way.

THIRD QUESTION.

That the Earl of Peterborough acquaint the House, what Advice his Lordship received from the Earl of Galway at Madrid, in order to concert any public Measures, and what is Lordship knows of the Reasons that induced the King & Spain to go by Arragon towards Madrid, and not by Vancia?

Answer.

To the third Question the Earl is pleased to answer, That the Earl of Galway continued about forty Days at Marid, without making any Endeavours to augment his Troops, or provide any Magazines for the Sublistance of is Army; that meeting the Enemy unexpected, and retreatng to the Camp of Guadalaxara, the Troops were without Provisions, and in the greatest Disorder; that the Measures aken in that Retreat, where 5000 Men were lost without Blow, and the whole Cavalry ruined, were positively against he King's Opinion, and that of all his Officers and Miniers: That the Earl of Peterborough had the Accounts he ives from the King of Spain's own Mouth, and several of is Generals; and it will particularly appear by Letters rom Count Noyelles, Velt Mareschal of the Emperor, and General to the King of Spain, and from Mr. Stanhope, which etters the Earl is ready to produce; and that it is notorious o the whole World, that if the Earl of Galway had pursued he Enemy ten Days longer towards the Ebro, all the Horse nder the Mareschal of Berwick had deserted to King Charles, nd the French could never have returned to Spain.

FOURTH QUESTION.

If his Lordship pleases to give an Account of the Councils

Anno 9 Annæ, of War in Valencia, about the 15th of January, 1707, upon Notice of the Earl Rivers failing into the Streights, and on on the Projects of that Campaign, and what Number the King took from the Army, and an Account of his Manifeli upon fo doing?

ANSWER.

To the fourth Question the Earl is pleased to answer, the feveral Councils of War were held in the Month of January at Valencia (about that time that the Intelligence was brought that the Forces under the Earl Rivers were entered into the Mediterranean) in order to adjust the Measures for the enter ing Campaign; that the Matters therein debated, were principally, whether the Army should march towards Madril and feek the Enemy? In the Debates, the Earl of Petobs rough positively affirms, that the Earl of Galway, Mr. Stahope, and the Lord Tyraquley, supported those Measures, with the Portuguese General; and that the King, the Count Novelles, the Spanis Generals and Ministers, with himself argued strongly against those Measures, as highly dangerou and impracticable, and this in repeated Councils of War till at last the Earl of Peterborough, folicited by the King d Spain to renew the Debate, defired the King, that all calls to the Council should bring their Opinion in writing, that every body's Opinion and Reasons for that Opinion, might appear, and be known to the Words, which, according n the King's Commands, were put in writing and delivered at the Council. That the faid Earl fent his Opinion home and gave the Lord Treasurer an Account of the controvers Points in that Council of War, by Letters about that time, and after the Battle of Almanza, from Genoa; which la ters, attested upon Oath to be true Copies, he is ready a produce.

That the King's Opinion, and that of all his Generals and Ministers, in concurrence with the Earl of Peterborough, were over-ruled by a Minister of her Majesty, affuring that in Majesty had given him Orders to declare, in her Name, the her positive Orders were, that they should seek the Enemy march to Madrid, and not divide the Forces, upon any W

casion whatsoever.

That, in a subsequent Council of War, the best Measure were concerted for the putting this in Execution, again which the King and fo many Generals and foreign Minite had declared; and that it was unanimously agreed, the Am should march by the Head of the Tagus into Arragon, avoid the Enemy's Horse in the Plains, and not to have the River to pass before the Enemy.

That, notwithstanding this, the Earl of Galway brought Anno 9 Anne, the Army into the Plains of Valencia, the direct contrary 1710-11.

Route to that of Arragon, and into all those Dangers which he was to avoid, by marching by the Head of the Tagus.

That, by Letters from my Lord Sunderland to Mr. Stanbepe and Lord Galway, before the House, it appears, that these Lords and Persons differed in Opinion from the rest. The Subject-matter of their Opinion being inserted, and it being taken Notice of in such Letters, that these Opinions in Writing were received, and agreeable to the Lord Treasurer's Thoughts; and Mr. Stanbope thanked and approved, for what he had offered in the Queen's Name.

That the Earl of Peterborough was the more of that Opinion, because the Duke of Savoy and Prince Eugene had declared their Sentiments for a defensive War at that Time in Spain, and had communicated their Thoughts to Charles III. upon that Subject, to the certain Knowledge of the Earl of Peterborough, as he can make appear by authentic Papers

from the King of Spain.

That the Earl sent a Project of the Duke of Savoy and Prince Eugene, in concert with himself, to the Queen, which her Majesty had herself required, in which the said Sentiments might appear, if the Earl had the Queen's Leave to

produce it.

upon

d op

r the

ifelto

, that

nuary,

ught.

to the

enfg.

prin-

adril

eterbo

Stan-

int &

mfelf

rerow

War;

ng d

called

, that

might

ng n

ivered

home

verted

time.

h Le

ady to

ls and

, west

at he

, that

nemy,

y 00

afun

gair

nifte

Arm

on, t

re the

The

That he went into Italy by the Queen's Commands and Sollicitations, with Powers and Authorities to negociate and reat with the Duke of Savoy, tho' it is true he was found fault with for fo doing, as if he had not the Queen's Orders, (which yet he is ready to produce) and was recalled upon that Pretence; that those Orders were communicated to the King of Spain, Lord Galway, Mr. Stanbope, the Generals and Ministers of the Army, when at Guadalaxara, and he was by them unanimously follicited to go for Italy, in pursunce of those Orders, and this agreed to in a Council of War.

That an Objection raised, that he went alone, when orlered to go with Troops, is of no Weight, since, while he
was preparing to execute those Orders according to that
Letter, a strong Squadron of the Ships were commanded
leave to the West Indies, under Admirals appointed from
England, and the particular Ships mentioned for that Service. That those Orders were founded upon the Supposition
hat Madrid, and all Spain, were in the Hands of King
Charles; that notwithstanding the total Alteration of Afairs, it was not in the Power of the Earl of Peterborough to
prevent this satal Separation of the Fleet, the he proposed,
and sollicited the other Admirals to join with him in setting
side Orders so prejudicial to the Public, but could not pre1710 11.

Anno o Annæ, vail; when yet they allowed it made the Fleet useleis that Year where they were, and that the Squadron under their precise and positive Orders, could be of no Service the West Indies, nor even to go out of there, to pursue to

Galleons, had they had Intelligence of them.

That the King of Spain, Count Noyelles, Mr. Stanbag and Zinzerling, by the King's Order, follicited the Baile Peterborough's Return into Spain, and he was ordered by Catholic Majesty to follicit, in the most pressing manner that the Earl of Galway might be recalled, and the Port guese Troops removed; that, accordingly, when he had in the Project upon Thoulon, and against France, to the Second tary of State, he returned, and affifted at the several Com cils, which are now enquired into, and of which he has give a full and true Account; and that he was the more prefer and endeavouring to prevent the rash Measures which brought on the Battle of Almanza, because the Defensive Spain, was agreed on by the Duke of Savoy, and Prin Eugene, in order to the Design projected against Thousand which Design against Thoulon was wholly altered, a made so impracticable, that the Duke of Savoy, in the m public and folemn manner, declared his Unwillingness engage in it.

ro

h

li

V

d

et

T

2 ur

Pro-

vii

h

W

oug

Af

n,

ted

That then in those Councils, when the Earl Rivers arrived, and landed at Alicant, farther Debates arose wh Advices should be given him, and what proposed to him execute with his Troops: The Project approved, and offer by my Lord Galway and Mr. Stanbope, was (to the bell his Remembrance) that the Troops should advance to so little Town near the Enemy, with Assurance given my la Rivers, that, in some few Days, he should be sustained in a confiderable Body of Horse, and some Foot: That in Particular he refers himself to the Earl Rivers, not have fo perfect Remembrance of it as the rest, but that her fectly remembers that he opposed, with the utmost Warm that any Proposition should be made to the Earl River, being certain (however dangerous and improper it was should such Measures be pursued, that Earl, being wh ignorant of the Situation of Affairs, would not object agu

marching towards the Enemy.

He perfectly remembers, that, at these Councils, there no Account given, that could be depended upon, of Enemy's Forces, who, at that Time, were known to have Body of near 10,000 Horse, and might soon be drawn ther from their Quarters; he knew that these Troops or do no Service, but must remain fatigued and exposed, out the Forces promised in a few Days to support the

hich he was certain could not join them in a Month, and Anno 9 Anne, hought himself obliged to give my Lord Rivers and Brigaier Gorges this Account, that the Earl Rivers might take he utmost Cautions, and be upon his Guard.

That according to the Account he gave, the Earl Rivers's orces were fatigued and exposed, for near a Month, withut any Reinforcement from the Earl of Gabway; and, at last, rders were sent to make a Retreat, which could not be ex-

cuted without great Hazard to the Troops.

hope, and de y his oner, orts. I feat ecre Countries which we is and orthogonal orthogon

els I

y what is field

fon La with a via

rmi

hold gain

of t

That upon the Earl Rivers's Arrival at Valencia, after ch Usage to himself and her Majesty's Troops, the Earl of eterborough met him just going to the King, and told him, by he was fo positive in the Information given him, that should not be joined by any Troops in a Month's Time; hich was, because he knew that the new Commissaries they d chosen for furnishing Bread and other Provisions for the roops, at a higher Rate than they were furnished before, ere not engaged by their Contract to deliver the Necessas for their Troops which were to join the Earl Rivers, till Month after the Time they were promised it; and the Earl Peterborough then defired the Earl Rivers to alk the King, hether this Matter of Fact were not true? Who, as he lieves, might tell him the fame thing.

FIFTH QUESTION.

What the Motives were of the King of Spain's leaving e Army, when it was resolved to march towards Madrid d towards the Enemy; and whether there were any Orders etended from England for those Measures?

ANSWER.

To the fifth Question the Earl is pleased to answer, That King of Spain, when the Troops were marching into urcia, towards the Enemy, affembled a Council to no other rpose, but to send, by the Hands of his Secretary of State. Protest, with his Reasons why he would not march with Army, but go to protect his Subjects in Catalonia; the intents of which Protest, the Earl very well remembers, ving had a Copy of it, by the King's Order, had Instruments under the King's Hand and Seal, to shew w he was over ruled, and contradicted in the Matters he ought fit to propose for the public Service.

After the reading the Earl of Peterborough's Recapitula- E. of Abingdon n, the Earl of Abingdon, Chairman of the Committee, ted my Lord Galway, Whether he had any thing to add his Paper; to which his Lordship answered, 'That his emory suggested to him nothing more at that time, but Qq2

an

qu acl

no

Sti

he

ful

bon

h

in

an Box

t,

o

h E

0

u

Anno 9 Annæ, that, if the House were pleased to allow him a Copy of the Earl of Peterborough's Paper, he might make some Remark 1710-11.

upon it: Which was granted.

His Lordship's Question to and his Answer.

The Chairman of the Committee asked afterwards the Lord Tyrawley, Whether he was willing to communicate in Lord Tyrawley, the Lords, what he knew concerning the Council of Wa held in Valencia, the 15th of January, 1707. N.S. To which he answered, That the Reason why he was flyd speaking the Friday before, was, because he thought hime accused; and as his Doubt still continued, and no body i obliged to accuse himself, he defired to know, whether he was accused or no? And if he was, he defired a Copy of the Accusation, that he might put in his Answer.'

Duke of Argyle.

Hereupon the Duke of Argyle faid, 'That the Lord & rawley's Question was improper; that he was there in order to be examined by the Lords, and that he ought to answer to such Questions, as should be put to him by the Chairman! The Lord Tyrawley infilting, that if he were accused, he ought to make his Defence according to the Forms of Earl of Peterbo- Courts of Judicature ; the Lord Peterborough faid, 'That's accused no body; that the Lord Tyrawley was a gallant Man

rough.

but that, as it commonly happens, he might have been swayed by the Opinion of his Superiors; whereupon the Chairman told him, he was not accused. Notwithstanding this, the Lord Hallifax faid, 'That the Lord Tyrawlay Question was not altogether ill-grounded. That any thing that tends to a Censure, may be looked upon as an Account

Lord Hallifax.

tion; and that the House of Peers, being the supreme Com of Judicature, they ought to observe the Forms of Judice as well as inferior Courts.' A Debate being like to enfer Duke of Buck- thereupon, the Duke of Buckingham moved, 'That the Pa fons at the Bar might withdraw; which they did; and the

ingham.

Lord Hallifax.

his Grace complained of the Earl of Abingdon's faying total Lord Tyrawley, he was not accused. The Lord Hallifa faid, 'They were entered upon a large Field, that this be finess had taken up much of their Time three Years below, to little Purpose; that the Council in Valencia was a Point of no Weight or Confideration; but that, if it was made! be the Cause of ill Measures, the Lord Tyrawley was involved in the same Accusation with the Lord Galway.' Here

E. of Abingdon. upon the Earl of Abingdon justified what he faid, wiz. The the Lord Tyranvley was not accused; urging, it was impofible he should, because the House of Peers only judges, to

Duke of Argyle. never accuses: After which, the Duke of Argyle, in Anima to the Lord Hallifax, faid, 'That three Years before, the enquired how Spain had been got, but now they enquire how it came to be lost; and that they were only enquiring th

Var To Va

the

the lifax Be fore,

Ois

le to

lere

四点 地區

the

ring, and and not accusing.' To this the Duke of Marlborough replied, Anno 9 Anne. That he could not perceive the Tendency of such an Enquiry; but, if they defigned to censure Persons, who had acted to the best of their Understandings, they would have D. of Marlbono body to serve them; and that it appeared by General rough, Stanbope's Letter to Mr. Secretary Hedges, that the Council held in Valencia was unanimous in four Points, and did not debate the fifth, which they left to be determined by the Subsequent Councils of War.' Hereupon the Earl of Peterborough defired, that Mr. Stanbope's Letter might be read, which was done accoordingly. It bore Date the same Day he Council was held; and the most remarkable Passage in it, is, 'That he, the Lord Galway, and the Lord Ty Mr. Stanhope's reauley, had given their Opinions for an Offensive War, Letter read. and that King Charles's Ministers and the Earl of Peterbrough being of another Opinion, he had protested against i, in her Majesty's Name; faying, 'That the Queen did not fpend fuch vast Sums, and fend such Numbers of Forces. to garrison Towns, but to make King Charles Master of the Spanish Monarchy: But he apprehended he had committed a Fault, in offering to protest in her Majesty's Name, against he Opinion of a Person of so superior a Character as the Earl of Peterborough.

After the reading of this Letter, the Lord North and Grey Lord North and aid, 'That the Lords Galway and Tyrawley having been Grey. officified with an Opinion that they were accused, they ought to be let know they were not.' The Lord Cowper added, Lord Cowper.

That they ought to declare clearly and plainly, whether his was an Accusation, or no; that the Reputation of Men of Honour was their Liberty and Property, that consequently, if this Enquiry tended to censure the Reputation of the Lords Galway and Tyrawley, by what Name soever it might be called, it was an Accusation; and they might ask to have tin Writing, and ought to be allowed Time to make good their Answers; adding, he did not speak so much in Favour of those two Gentlemen, as for the Honour of that illustrius Assembly.

To this the Duke of Buckingham replied, 'That the Lord Duke of Buckyrawley's Question was improper: That, if all who are ingham.
ummoned to the Bar of the House, in order to be examined,
hould ask the same Question, they could never proceed in
ny Enquiry, or come to the Knowledge of any thing:
That the Lord Tyrawley was as cautious and reserved, as if
the knew he was really accused. That the Friday before, he
emembered nothing; and now he wanted to know, wheher he was accused, or no? That the Lord Galway had
sted sairly, like a Man of Honour: That the Lord Tyraw-

lev

1710-II.

Duke of Marlborough.

ter,

Earl of Peterborough.

War.

the Lord Tyrawley, and his Answer.

Anno , Annæ, ley ought to do the same ; but if he refused, they could no force him to it : That the Reading of Letters was irregular, before they had examined him; and that the Chairma ought to ask him, peremptorily, whether he would tell the Lords what he knew about the Councils held at Valencia! Hereupon the Duke of Marlborough moved, That the Lord Galway and Tyrawley, might be told, 'That they were no accused, and that the Council in Valencia was only to give Light into the subsequent Operations of the Campaign.' To Earl of Rochef- which the Earl of Rochester answered, ' That, tho' it had been alledged, that Reputation was as dear to them as Libert and Property, yet the Lords ought not to tie their Hands, by telling them, whether they are accused, or no: And therefore moved, that the Chairman should alk the Lord Trawley to answer, if he pleased. The Lord Peterborough faid, 'No

Man can be accused for giving his Opinion in a Council of

After which, the Lord Galway and Tyranvley being called Question put to in again, the Earl of Abing don told the latter, ' That the Lord defired to be informed of what he knew about the Council of War which was held in Valencia.' Thereupon the Lord Tyrawley faid, 'That, being apprehensive he might be ac cused, he thought he ought to be upon his Guard, but as he hoped that illustrious Assembly would not take Advantaged any thing he might fay, he would frankly acquaint them with all he knew about the Council of War: That it is a hard Matter to charge one's Memory with things fo far distant; but that he remembered, in general, that feveral Scheme were proposed for the Operations of the ensuing Campaign: That an Offensive War was resolved upon by a Majority of Voices: That besides the Lord Galway, Mr. Stanbope, and himself, all the Portuguese, viz. the Marquis das Minas, Count d'Oropeza, the Conde de Corfana, and the Portuguif Ambassador, were of that Opinion: That the Operationsd the Campaign were left to the Determination of subsequent Councils: That as to the Battle of Almanza, it was unant mously resolved upon, not one General opposing it; and that Monsieur Freishman, who commanded the Dutch, and wa very jealous of any thing that regarded the Service of in Masters, did not speak one Word against it.'

Earl of Nottingham . Duke of Buckingham.

Lord Hallifax.

The Earl of Nottingham having interrupted the Lord In rawley, telling him, 'He was not examined about the Battle of Almanza: The Duke of Buckingham faid, 'No Lord ought to speak to the Lord Tyrawley, but the Chairman! And the Lord Hallifax added, 'That what he had faid wa very proper, the Battle of Almanza being a Consequenced the Council of War held at Valencia. On the other hand

he Earl of Peterborough faying, 'That what the Lord Ty- Anno Anne rawley had faid was to no purpose.' The Duke of Marlboough faying, " He had answered fully to the Question that Earl of PeterBo-

was put to him.

d not

regu.
rman

mcia.

Lords

e not

give To had

berty

s, by

efore

ley to · No

cil d

alled Lords

uncil

Lord

e ac

as he

ige of

them

hard

tant;

emei

ign:

ty of and

linas,

uguifi

onsof

quent

mani d that

d was

f his

rd %

Battle

Lord

man."

d was

ice d

hand

The Earl of Godolphin having defired that the Lord Tyraw Duke of Marlbomight go on, he was called in again; and the Chairman rough. elling him he might proceed, he answered, He had no Earl of Godolmore to fay.' However the Lord Cowper defiring he should phin. e asked, Whether the March to Madrid was agreed in hat Council of War? And the Earl of Poulett, Whether in Earl of Poulett. he same Council, an Offensive War was resolved upon? The Chairman put those two Questions to my Lord Ty- Two Questions rawley, who answered as before; 'That it was resolved put to Lord Tyo march to Madrid, but that the further Operations of the rawley. Compaign were referved to the Determination of subsequent Councils, after they had beaten the Enemy.' The Earl of Peterborough desiring to know by whom those Resoluions were taken, the Lord Tyrawley answer'd; ' By the Majority of several Councils of War, which were held twice Week; and that, as far as he could remember, the King lid not declare his Opinion.'

The Earl of Peterborough having afterwards defired Leave Earl of Peterboo ask the Earl of Galway a Question, about his Negotiations rough. n Italy; the Lord Poulett faid, No Questions were then to Earl of Poulett.

be put, but in relation to the Council of War held in Valenia. The Earl of Abingdon having told the Lords Galway Earl of Abingnd Tyrawley that they might withdraw, they withdrew ac-don. ordingly; after which the Lord Cowper faid, 'That all he Lord Cowper. could collect from the Lord Tyraquley's Examination, was, That the same Persons who were for an Offensive War, in he Council held at Valencia, were very unanimous in the

subsequent Councils, and concurred in the Execution of the

Operations agreed on.' After this the Chairman ordered the Clerk to read feveral Several Papers Papers that lay upon the Table, particularly the following read. Letter from Mr. Stanbope to Mr. Secretary Hedges:

Valencia, Jan. 15, N. S. 1707.

SIR,

" Since my last, of the 25th of December, we have receivd the ill News of the King of Portugal's Death, and the Loss of Alcantara. The same Ships brought us Letters from ny Lord Rivers and Sir Cloudesty Shovel, acquainting us, hey had taken the Resolution of bringing the Land-Forces o this Kingdom. Upon these Advices, and the Arrival of he Earl of Peterborough from Italy, several Conferences have een held on the Operations of the new Campaign. Inclosed I feud

Anno 9 Anne, I fend you the Opinions given by my Lord Galway, the 1710-11. Charles Hara, and myself, in writing, as the King had a fired. What is mentioned therein of taking Origania and Murcia, as foon as the Forces shall land, is agreed man moufly; as likewife to folicit either Succours, or a powerful Diversion from Italy; and also to engage, if possible, a Squ. dron to stay in these Seas. I am forry it is doubtful whether this latter can be compassed, Sir Cloudely Shovel having wi Word, that the Ships will return foon after the landing of the Troops; and if the Succours the French give out they aren have, (of which my Lord Peterborough will inform you more particularly) are really marching, a Squadron would be as ceffary to hinder them from hurting us in Catalonia; which would otherwise require more Troops for the Defence of it than we can spare, and leave ourselves a sufficient Forcen go to Madrid. The main Part of our Votes, which relate to the Defign of the Campaign, is not yet determined, then being many Opinions, that we should not think of Madril but act defensively, and in several Bodies. I have in me of my Letters, fince I came hither, either to my Lord Tra furer, or you, expressed my Apprehension this would be aimed at; and therefore hope we shall foon be informed from you of her Majesty's Pleasure in this Particular. I have perhaps, been guilty of a Fault in supporting my Opinion, which is the same with my Lord Galway's, too warmly fome of these Conferences, having faid, that her Majesty di not spend such vast Sums, and fend such Numbers of Form to garrifon Towns in Catalonia and Valencia, but to mike King Charles Master of the Spanish Monarchy; and if it was infifted upon, to divide the Forces, and put ourselves on the Defensive, I should, in her Majesty's Name, protest again fuch Measures. The Fault I apprehend myself to have com mitted, was using the Expression of protesting in her M jesty's Name, in presence of my Lord Peterborough, whom Characters from her Majesty so much superior to mine, and from whom it was my Fortune to differ in Opinion, on the Occasion. His Lordship will have communicated to you the Projects he has concerted with the Duke of Savy at Prince Eugene, for the Execution of which a strong Squadro is necessary. If the Affiliance of our Fleet can engage that Princes to march by Land to Thoulon, it may, on that Cond tion, be worth our while to spare some Foot from hence, if the Execution of such a Defign, as destroying their Nati Strength, tho' we should be reduced to act defensively here for, let us take never so good Resolutions, I cannot help to peating my Apprehensions to you, that we shall do no gra Matters while we have so many Generals so little disposed

agree. Experience has fo fully convinced me of my Difa- Anno 9 Annæ, bility to procure that good Understanding amongst ourselves, which is necessary for the Queen's Service, that I do, with the greatest Earnestness, renew my Application to you, that I may be recalled from a Station, in which I am perfectly useless to her Majesty, and am ruining myself, being forced to live at much larger Expence than my Allowance will bear: Your Favour in this Matter will be most thankfully acknowledged by him, who is, with the greatest Respect,

Your most humble, and

Most obedient Servant,

JAMES STANHOPE."

Then the Clerk read also a Letter from Sir Charles Hara, (now Lord Tyrawley) to Mr. Secretary Hedges, of the same Date, viz. January 15, 1706-7. The Title of a Letter from the Earl of Sunderland, to General Stanbope, was also read; but his Lordship not being then in the House, the reading of that Letter was postponed, and the Opinion which Mr. Stanhope gave, in French, in the Council of War held in Valencia for an Offensive War.

Next to this the Clerk read the Opinion which the Earl of Peterborough delivered in writing at the faid Council, be-

ing as follows:

章 是 6 经

圣 医胃 主

the

en

3100

hid

of it

e to

elate here

drid, mot

res be

from ave, nion,

ly #

y did

orce nake

t wai n the

com Ma

oh

, and

you,
y and
adron
those

ondi-e, for Vava

here

lp re great fed to

' An Offensive War is of Shew, and Reputation to the Generals and Troops, but the Defensive is often of most

Utility to the Public.
Our Circumstances require vigorous Efforts in Italy or pain. In the last, the Defensive secures us the Crown of Arragon, but the Troops in Italy can only give the mortal Blow, that is, enter France. Neither can it be doubted, if he French defift from their Hopes in Italy, but that the great Force in that Country will be usefully employed by the Duke of Savoy and Prince Eugene.

'No positive Opinions can be given, without knowing he Condition of the Fleet. Without the Assistance of the bea, the best Dispositions in Italy are useless. If that were vanting, all must be hazarded in Spain, the War there beng of an inconceivable Expence to the Allies, but the Diffiulties of substitting Armies in Castile are sufficiently apparent y the last Campaign : And the Dangers are evident of puting the whole upon the Risque of passing to Madrid, before in Army fo superior in Cavalry.

'The Tagus must likewise be passed before the Enemy, (if narching by Murcia) without Pontoons, or the necessary reparations for such an Attempt. The Precipices of that 1710-11. River Rr

Anno o Annæ, River are natural Fortifications: If there are Plains new Aranjues, it is almost equally impossible to pass them before an Army in Batalia, without a great Superiority in Artiller; and nothing is more easy to a Body of Horse so numerous, than to cut off the necessary Provisions, in a Country where

they are fo scarce.

If the Troops advance into Castile, towards Madrid, with. out taking the necessary Precautions for the Defence of Ca. talonia, either Madrid must fall into our Power, or all is loft It is to be doubted whether the Poffession of Madrid (without the Defeat of the Enemy's Army) be decifive; but the Los of Catalonia is certain, if the Places there are not better for. tified and provided, and if Forces are not fent into that Province or those Parts of Arragon, near that Frontier; which may serve at the same time for the Defence of the fortifed Places of Catalonia, and towards preventing the Succoun from the Side of Navarre.

' If we hope for a Maritime Force betimes in these Seas, which may be superior to the Enemy, there does not appear the least Necessity for rash Measures; and the least Dis grace, or great Fatigues alone, may give her Troops that la clination to defert, which the Enemy will not fail to improve,

when in a proper Situation.

Above all things the Defence of Catalonia, and what we have, is necessary. Our Intelligences assure us, that great Numbers of Troops affemble in Roussillon, and that gest Magazines are forming there for Foot and Horse, and all warlike Necessaries. But to conclude, what better Opinion can be offered than those of the Duke of Savoy and Print Eugene? Who have doubtless communicated them to the Emperor, the Queen, and his Catholic Majesty, where that Duke has Ministers.'

Earl of Peterborough.

The Earl of Peterborough having defired that some of his own Letters might also be read, the Clerk begun with on from his Lordship to the Duke of Marlborough, (whom the Earl faid, he knew was not prejudiced against him) whereit amongst other Particulars, his Lordship said, ' He had over come all his Enemies, but Lies, and these he had Papen enough with him to defeat. Another from the Earl of ? terborough to the Lord Treasurer, (or Earl of Godolphin) was read likewise, containing a Justification of his Lordhin Conduct; exposing the rash and absurd Measures that he been pursued; and acquainting the Treasurer, that his the Earl of Peterborough's) Projects were approved by the Duk of Savoy, Prince Eugene, and Monfieur de Belcastel, thought Friend to the Lord Galway; adding, that whilft he had

near

efore

lery;

rous,

here

with.

Ca.

loft.

hout

Lois

for-

Pro-

hich

tified

cours

Seas,

ap-

Dif.

t In.

rove,

it we

great

great

d all

nion

TIDCE

the

that

his

one

the

ereit

over-

De.

WM

hipt had

)uke

gh:

he had the Honour to command in Spain, not one Party of Anno 9 Annæ, twenty Men were beaten, nor a Vessel lost. After this, the Clerk read the Earl of Sunderland's Letter to Mr. Stanbope, of the 14th of February, 17 6-7, as also an Extract of King Charles's Orders to my Lord Peterborough, about an Attempt upon the Islands of Majorca and Minorca. Upon which the Earl of Paulett said, 'That the Earl of Peterborough had given Earl Paulett. a fair and just Account.'

To corroborate what the Earl of Peterborough had faid,
Dr. Friend was called in: Whereupon the Duke of Devon-Duke of Devonfrie moved, that he might be fworn. This occasioned a shire.
Debate that lasted near an Hour, after which it was agreed
that he should be sworn; which being done accordingly, he
vouched for the Authenticness of the Papers inserted in his

vouched for the Authenticness of the Papers inserted in his Account of the Earl of Peterborough's Conduct in Spain; the Copies whereof, he said, he had received, either from the Earl of Peterborough, or from his Lordship's Secretary. Then the Earl of Abingdon read the Question that had been given in by the Earl of Ferrers, viz. Resolved, That the Earl of Peterborough has given a very faithful, just and honourable

Account of the Councils of War in Valencia.

This Question occasion da Debate that lasted above an Hour, in which the most remarkable Passage was this: The Bishop of Sarum having excepted against the Word Just, because Bishop of Salist the Earl of Galway had declared he had some Remarks to bury. make on the Earl of Peterborough's Recapitulation, but that he readily agreed to the Word Honourable. The Duke of Argyle took him up, saying, 'He knew no Difference between D. of Argyle, those two Expressions; for all that is Honourable must be Just, and all that is Just is Honourable.' At last, the Question being put about nine o'Clock at Night, the Lords divided, and Tellers being appointed, 59 were for the Assirma-Earl of Peterbotive, and 45 only for the Negative; and the House being rough's Account resumed, the Resolution of the Committee was reported, and voted just, &c., agreed to.

It was afterwards moved to adjourn to the Thursday sollowing; but before it passed into a Resolution, the Earl of Paulett gave in the sollowing Question to be debated in the next Committee of the whole House; 'That the Earl of Galway, Lord Tyrawley, and General Stanbope, insisting at a Conference held at Valencia, some Time in January, 1706-7, in the Presence of the King of Spain, and the Queen's Name being used in Maintenance of their Opinion for an Offensive War, contrary to the King of Spain's Opinion, and that of all the General Officers and Public Ministers, except the Marquis das Minas; and the Opinion of the Earl of Galway, Lord Tyrawley, and General Stanbope being pursued in the

Rr 2 Operations

Anno 9 Annæ, 1710-11.

Operations of the following Campaign, was the unhappy Oc. casion of the Battle of Almanza, and one Cause of our Mil. fortunes in Spain, and of the Disappointment of the Duke of Savoy's Expedition before Thoulon, concerted with her Majesty.

Earl of Whar-Lord Hallifax.

The Earl of Paulett defiring that this Question should be entered in the Book, the same was opposed by the Earl of Wharton and the Lord Hallifax; but it was after a fmall Debate, agreed, That the same should be entered : After which the House adjourned to the Thursday following. Accordingly, on the 11th of January, the Peers being

Second Debate on the Affairs of Spain.

fet, three Letters from the Earl of Sunderland were delivered in, viz. one to General Stanbope, of the 23d of December, 1706; another to the Earl of Galway, of the same Date; and the third to the faid Earl, of the 27th of the fame Month. The Order of the Day being read, an Officer was fent to know whether the Earl of Galway attended, and the House being informed he did not, the Earl of Paulett made; long Speech, wherein he represented, ' That the Nation hav-

ing, for many Years, been engaged in an expensive War, it was necessary to give the People the Satisfaction to let them

E. of Paulett.

know how their Money had been spent, and who deferved Thanks, and who to be blamed; that it appeared, the Service of Spain had been very much neglected; that many Officers upon that Establishment looked on their Employments as Sinecures, being Favourites of the Party; and

D. of Bedford.

our Misfortunes, the Lords ought to censure those that in fluenced it; concluding, that the Motion he made on the Tuesday before might be read.' Hereupon the Duke of Bedford delivered in a Petition of the Earl of Galway, which was read, importing, that, being informed that Mat-

that the Council held in Valencia, being the Spring of all

Marg. of Dorchester.

ters which very much concerned him, were inferted in the Journals of the House, he prayed their Lordships to gint him Time to put in his Answer, before they came to a De The Marquis of Dorchester delivered also termination. Petition of the Lord Tyravley, to the same Effect; which

L. North and Grey.

being read likewise, the Earl of Orford moved for adjourning, and appointing a Day to confider of these Petitions: To which the Lord North and Grey faid, ' The Lords Galway and Tyrawley ought to have put in their Answers to the

D. of Bucks.

Earl of Peterborough's Paper, instead of presenting Petitions for Time which looked like a Delay.' The Duke of Buck ingham said on the same side, 'That it must be a Mistake; that the Petitioners might think themselves accused, which could not be; for the Peers never accuse, but only give 0. ders to the Attorney-General to profecute: That although

Oc.

Mif-

uke

her

d be

rl of

mall

fter

eing

ered

ber,

ate; ame

Was

the de a

hay.

r, it hem

dered,

that

Em-

and

all

in.

the

e of

way, Mat-

the

give De

0 1 hich

urn-

ons: Gal-

the

ions

uck ke; hich Or.

ugh rery

very body may have Access to their Journals, because they Anno 9 Anna, re a Court of Record, yet no Inquest can take Notice of any hing that passes, or is depending in the House; that, at this ate, any body might put a Stop to their Proceedings; that hedid not, however, blame Men that were under the Appre-tentions of being accused, for presenting such Petitions; but hat they ought to take no Notice of them, and proceed ccording to the Order of the Day, to the Confideration of he State of the Nation, in relation to the Affairs of Spain. To this the Duke of Devonshire answered, ' That as a Cen- Duke of Devonure might enfue upon a Motion made the Tuesday before, shire. he Lords Galway and Tyrawley had Reason to petition for But the Earl of Rochester Earl of Roches Time to make their Defence.' eplied, 'That he never heard of a Petition of that nature: ter.
That the Petitioners defired, in effect, to be heard upon the Debute of the Lords, which was improper: That no body et knew, or could tell, what the Question was; but that fter it was known, it might then be proper for them to put n their Petitions; concluding, they ought not now to be reeived.' Hereupon the Lord Somers said, ' That the Peti- Lord Somers, ions were neither improper, nor given in at any improper Time; that it would be too late for the Petitioners to apply othe Lords, after they were come to a Resolution; that he loped it would never be found in the Book of that House, hat when the Lords were going to proceed to a Censure, hey refused to hear those that were to be affected by it; hat the Lords Galway and Tyrawley had a Right to be leard, and clear the Matters of Facts as Subjects of Great-Britain; that the Lords ought besides to be cautious, how acy proceeded in Enquiries of Things done before the Act f Oblivion and Indemnity; concluding, it was but a natual Justice, that Men in Danger of being censured, should ave Time to justify themselves.' To this the Duke of Duke of Argyle, drgyle answered, 'That he did not know what Services it would do the petitioning Lords to have Time, and to tell he House that they differed from the House; that it had lready been put to them, whether they had any thing to ly to that Point, and that two Days had been allowed hem to answer the Earl of Peterborough's Recapitulaion; that, as to the Act of Indemnity, his Grace did not are how little Use was made of it; that the said Indemnity inders not Enquiries; that the People of Great-Britain ught to know to whom their Misfortunes are owing: But hat, however, he defired no body should be punished.

Hereupon the Lord Cowper said, 'That the Debate about Lord Cowper.

he Affairs of Spain was adjourned to that Day; and therebre it was improper to take notice of the Earl of Paulett's

Motion

1710-11.

Anno 9 Annæ, Motion in the House, but that it might be considered in the Committee; that as to the two Petitioners, it was reasonable and proper to grant them Time to put in their Answers, to cause the Question tended to censure them; which they di not know before, when they were only examined: An that in Things essential to Justice, the ordinary Forms Earl of Notting- Courts of Judicature ought to be observed.' To this the Earl of Nottingbam answered, . That they could never be too tender of the Reputation of Men of Honour; but that in his Opinion, the Petitions ought not to be granted; be

cause this was no proper Time to deliver them, and because the Petitions themselves were improper; that the Act of la demnity ought to be facred, but not pressed too far; that the Petitioners had already been heard, and allowed Time to ad any thing to their former Declarations; that now the Lord were not enquiring into Facts, but forming their Judgmen upon them; and, that the admitting the Lords Galua and Tyrawley to take notice of what passed in the House would be admitting them to a Co ordination with the Lord! The Earl of Wharton replied, 'That a Cenfure is a Punish ment; that to punish Men, without giving them an Oppor

E. of Wharton.

tunity to make their Defence, is equal to a Banishment; the

he hoped the Subjects of England were not yet reduced a that; that this was the only Time the Petitioners could have to make this Application to the House; that the left thing the Lords could do, was to hear them, before Codemnation, fince any other Criminals might claim the

Privilege; concluding, he did not speak for the Saked those two Lords, but for the Honour and Reputation of the House.' The Earl of Nottingham answered, 'He did m

fay they could never be heard, for they might be heard, i the House should order a Prosecution, but only that the could not be heard on this Occasion. That they might as innocent as any of the Lords, because they might have

given their Opinion according to the best of their Unda tlandings, or might have been over-ruled: Which might be afterwards enquired into.' The Duke of Buckinghan

who spoke on the same Side, said, 'That he had a good Respect for those two noble Lords who petitioned; and as tender of the Honour and Reputation of the Houle, any Member: That therefore he was afraid of making

Precedents, and altering parliamentary Rules: That, cording to the Forms of inferior Courts, no Man has Right to be heard, or to stop Proceedings on Account his Reputation, as on Account of his Property; that hem

apt to believe, that some Persons, who did not like the Enquiry, had put those two Lords upon petitioning, to gi Time

Duke of Buckingham.

Earl of Notting-

ham.

n the

, be

And Os of

the that

i be cause

f la

t the add

lway oute,

ords.

ppor that ed to

could leaf

Con-

that ke d

f the l not rd, if they have nder-

ghan, great d wa fe, a aking it, as has a

int a

le w

e this gain

Time; but, tho' he would not have the Petitions granted, Anno 9 Anna, et he would move, that they might be called in, and heard.' Hereupon the Earl of Paulett said, 'That they had already Earl Poulett. seen heard, and had declared they had no more to fay: o that the Design of these Petitions was only to delay.' but the Duke of Shrewfury faid, " That if they were ready Duke of Shrewfo be heard, he consented they should, provided they de-bury. ivered nothing in Writing, which might occasion Delays.' The Earl of Godolphin, in Answer to what had been urged Earl of Godoly the Earl of Paulett, faid, 'It was true, they had been phin, eard before; but that there was new Matter, and an Imutation, wherefore it would be hard upon them not to be eard.' To this the Earl of Ferrers answered, ' That the Earl of Ferrers. Question contained only a Proposition to censure a Council; hat their Lordships were yet come to no Resolution upon t; and, as a Petition to a Debate of the House was never ffered before, he thought it unreasonable to grant these. That, as they must not judge by Success, so the declaring hat the Lords Galway and Tyrawley had given an ill Counil, was no Cenfure.' On the other hand, the Lord Halli- L Hallifax, ax faid, 5 That, out of an Affectation of avoiding Delays, nd of not going fast enough, they went so fast, that they nust come back. That the Petitioners had, indeed, been xamined, but were not heard to the Question proposed by he Earl of Peterborough; and that the Lord Tyrawley was ven interrupted when he began to speak of the Battle of almanza. Pray, my Lords, added he, proceed according o the Rules of Justice. When Sir George Rooke was called n Question, he was heard for three Days together. What, vill you not hear these two Lords, before you pass a Reolution that touches their Reputation? For my Part, when I hear these Arguments, I could stop my Hearing. The Earl of Paulett faying thereupon, That if they were Earl Paulett. eady to be heard, he readily agreed they should." The ord Hallifax infifted, & That their Demand ought to be Lord Hallifax, granted; 'urging besides, 'That the very Paper upon which he whole Debate turned, was not yet read.' To this the earl of Marr answered, 'He did not wonder some Persons Earl of Marr. ndeavoured to shuffle and prolong the Debate; but if they granted these Petitions, they might afterwards be desired to cost post pone this Enquiry, till Mr. Stanbope could be heard. The Duke of Argyle added, 'That he had, himself, asked Duke of Argyle, he Petitioners, whether it had been resolved to act offenively, to which they had given their Answers in the Affirnative; which was the material Point in Question.' The Duke of Devonshire infilted, That, as the Result of these Duke of Devon-Pebates might be put in a Representation to the Queen, the shire

Peti-

1

Anno 9 Annæ, Petitioners ought to have an Opportunity to be heard? which the Duke of Buckingham answered, 'That if the debated that Matter any longer, it would be the fame as Duke of Bucks. they granted their Petitions.' Nevertheless, the Lord Gun. Lord Guernsey. fey, speaking on the same, said, That, if the Question to rejecting the Petition, was put, and carried, they might the be heard to Matter of Fact; but, as to Matter of Opinion they could not be heard; and fo concluded, that the Que tion, to reject the Petition, be put in the House, and the Lord Paulett's Question afterwards debated in the Commit Earl of Scarbo- tee.' The Earl of Scarborough faid, 'That, if the Petitioner were to be heard again, he wished they might be upon rough. Earl of Paulett. Oath.' And the Earl of Paulett added, ' He hoped the should hear no more of the Act of Indemnity in this De Duke of Leeds. bate.' The Duke of Leeds faid, 'He thought the Petition irregular, however, he moved, that they might be laid a the Table, and taken no Notice of.' Which Motion w Lord North backed by the Lord North and Grey. But the Duke and Grey. Buckingham insisted, That the Petitions being irregulu, the Question for rejecting them ought to be put; and Duke of Bucks. carried, fuch Lords as pleased might enter their Protelly! Duke of Leeds. Upon which the Duke of Leeds faid, ' He should be form to fee Protestations made on that Occasion.' The Lor Lord Keeper. Keeper having, at last, put the Question, Whether the h titions should be rejected? t was carried in the Affirmating by a Majority of 57 Voices, against 46, that were for the E. of Abingdon. Negative. Hereupon the Earl of Abingdon faid, 'He fap posed, any body that presented Petitions, attended to know whether they were granted, or rejected: ' And the Du of Shrewfbury moving, ' That they should be called in,' D. of Shrewf-Duke of Argyle said, He took it for granted, that the Per bury. D. of Argyle. tioners were out of the way, and not to be found; and then fore moved, that the Committee might proceed.' -An Of cer having informed the Lords, that the Petitioners w Earl of Paulett. not at the Door; the Earl of Paulett faid, 'All this look Earl of Ferrers. like a Delay.' And the Earl of Ferrers moving, that Duke of Bucks. Message might be sent to them, the Duke of Buckingha moved, for adjourning the House, during Pleasure, in one to confider the Earl of Paulett's Question in a Committee the whole House, into which the Lords went immediate and of which the Earl of Abingdon was chosen Chairman. The Earl of Peterborough, opened the Debate with faying Earl of Peter-'That, having the Queen's Orders to be gone, he hop borough. the Lords would give him an Opportunity to clear for Heads that had been laid against him by the Secretary Duke of Bucks. State.' But the Duke of Buckingham faid, the Quelle ought to be read, in the first place : Whereupon the Earle

they as if uern for then nion, Quel of the

onen

upon they in De ition id on was ke of gular, and if

efts: I form Lord Lord e Pe fup know Duka e fup wen ooked mat a gebru oorde ee e ately no.

Abingdon read the Earl of Paulett's Motion before-mentioned. Anno 9 Anna Then the Earl of Peterborough acquainted the Lords, ' That his going out of Spain for Italy, was in order to concert Earl of Peterbo-Measures for the Siege of Thoulon, according to his Instructional tions: Being empowered to treat and negotiate with the Duke of Savoy, particularly about the Siege; of which he had given an Account in Writing. That he had feveral Conferences with the Duke of Savoy and Prince Eugene, in his Royal Highness's Closet, the Result of which he sent to the Court of England, and to the King of Spain. had afterwards feveral Conferences with my Lord Galway and Mr. Stanbope, to concert further Measures for the carrying on the Projects made in Italy: But, tho' he had acted according to his Instructions, he was, in a Letter from the Earl of Sunderland, dated the 28th of September, 1706. O.S. recalled, for negotiating Matters of fo high a Nature, without the Queen's Authority, which might be prejudicial to her Majesty's Service.'— Hereupon the Earl of Rochester faid, 'That the Earl of Peterborough ought to apply himself ter. to the Matter in question; and moved that the said Question might be read again; which the Chairman did: After which the Earl of Peterborough faid, 'He apprehended their Lord- Earl of Peterhips would enquire into the Disappointment before Thoulon, borough. in order to which he thought it very proper to acquaint them, that five thousand Men, which he demanded for the Reduction of that Place, were denied him, to be employed about imaginary Conquests. And, that he received the Thanks of King Charles, for the Projects he had concerted in Italy; but a public Minister desired, he might not be trusted.' The Duke of Argyle desiring that the Earl of Pe Duke of Argyle, erborough's Papers might be read; that, in particular, which shewed, that the Duke of Savoy institled, that there might be a defensive Campaign in Spain; while the Earl of Peterborough was looking for that Paragraph, in his own French Letter to Sir Charles Hedges, dated September the 10th, 1706, the Earl of Godolphin moved, . That the whole Letter might Earl of Godolbe read: Whereupon the Letter was delivered to the Clerk; phin, out, the Earl of Peterborough taking it from him, read it Earl of Peterhimself; and the most remarkable Expressions in it, relating borough. to the Question, were these: La prise de Toulon me parcit traticable _On demande 5000 hommes des troupes d' Espagne; hat is, The taking Toulon appears practicable to me; 5000 Men of the Troops in Spain are demanded for that Purpose. The Earl of Godolphin infifted, 'That if any Stress was to Earl of Godolbe laid upon this Letter, the same might be translated and Phin. ead by the Clerk.' Notwithstanding which, the Earl of Peterborough continued reading; after which the Lord Cow- Lord Cowper. 1710-11

1710-11.

Earl of Peterborough.

Anno 9 Anna, per backed the Earl of Godelphin's Motion, faying, He could not understand the Letter as the Earl of Peterborough read it : And how could their Lordships proceed to a Censure. without having a material Paper in the Language of the Country?' To this the Earl Peterborough faid, 'That it be ing thought fit not to entrust any Secretary with his Project. he wrote that Letter himself to Mr. Secretary Hedges; and that he could not write it in any other Language, to be un. derstood by the Duke of Savoy, and Prince Eugene, who kept both a Copy of it, as well as himself: But if their Lord. thips defired to have it translated, he moved they might at. journ, for he was no Secretary to translate it himself.' The

Earl Paulett.

D. of Argyle.

E. of Abingdon. Earl of Abingdon owned, the latter was not read regularly: But the Earl of Paulett waving that Matter, faid, 'The French could not have relieved Thoulan, if the War in Spain had been defensive.' And the Duke of Argyle added, 'Thu the Streis of the Question was, Whether the Duke of Savar insisted upon a Defensive War in Spain.

Earl of Peterbórough.

the Duke of Marlborough.

The Earl of Peterborough averring, that he infifted fo firmly upon it, that he defired to have 5000 Men out of Spain: The Duke of Marlborough acquainted the Lords, That the Project of an Attempt upon Thoulon was first proposed to the Duke of Savoy, by Mr. Hill, in the Year 1701, and afterwards negotiated there by his Grace himself win his Royal Highness's Ministers, Count Brianson, and Count Maffey; that 50000 l. were, at first, offered to the Duked Savoy, for that Purpose; but it was, at last, agreed, that he should have 100000 1. That the Year before the Execution of this Design, the Duke of Savoy earnestly desired, that it might be kept very fecret; fo that it was very inprobable he should speak of it to any body, and defire com Men out of Spain for that Purpole: Concluding, 'That the Astempt upon Thoulon did not miscarry for want of Me, fince there were near 17000 left behind in Italy; but fu want of Time, and other Accidents.' Notwithstanding this, the Earl of Peterborough affirmed, 'That, according to his Instructions, he had concerted with the Duke of Savoy the Earl of Paulett. Attempt upon Thoulon.' Whereupon the Earl of Paulett faid, That in such a Case, 5000 Men out of Spain might have made a strong Diversion, and contributed to the Reduc

> tion of that Place. After this, the Clerk read a Letter from the Lord Godolphin to the Lord Peterborough, dated February the 7th, 1708-9, importing, in Substance, . That Care ha been taken of all his Bills; that they were all (upon which the Earl of Peterborough cried, Protested!) fatisfied, that the War in Catalonia ought to be Offensive; and that this was the particular Defire of Prince Eugene, which ought to

Larl of Peterbarough.

be complied with."

ad

re, the be-

a,

and

UD-

ept ord-

ad.

The |

ly:

ain

'hat

2007

fo

t of

rds,

pro-

oz,

ount

e of

that

ixe-

ired,

Ooo Chat

Aca,

t for

this, his the

nlett

ight duc-

rom

ruar

had

hich

that

this

at to

The

The Earl of Peterborough having often mentioned his In- Anno 9 Anna, fructions for treating about the Siege of Thoulon, the Lord North and Grey moved that those Instructions might be pro-duced, But the Earl of Rochester alledging, this could not be Grey done, without the Queen's Leave, the Lord North and Grey Earl of Rochefreplied. 'They might present an Address to the Queen for ter, that purpose.' This being waved by the Duke of Bucking Duke of Buckbam, the Lord North and Grey acquiesced: Tho'tis remark ingham. able, that the Earl of Peterborough faid, ' That Mr Secre- Earl of Peterboary Hedges might be ordered to attend, and be examined rough. about that Matter:' And thereupon the Lord Halifax defi- Lord Hallifax. red, that the Lord Peterborough's Letter to Mr. Secretary Hedges might be left upon the Table : Adding, ' That fince the Duke of Savoy was for an Offensive War in 1706, he won dered how it could be a Crime in 1707.' To this the Earl Earl of Nottingof Nottingham answered, ' That the Earl of Peterborough's ham. Letter ought not to be left on the Table, unless he pleased. That no Inference could be more unnatural, than to fay, that because the Duke of Savoy was for an Offensive War in 1706. he must be of the same Opinion in 1707. That what the Duke of Marlborough had said about the Overture made to he Duke of Savoy, for an Attempt upon Thoulon in 1703. was very true, he (the faid Earl of Nottingham) having writ himself to Mr. Hill about it; that it appeared by General Stanhope's Letter, that he was for an Offensive War, unless ome Attempt upon France made it necessary to be on the Defensive: Which implied, that he knew the Defign upon Iboulon; and that the Duke of Savoy wanted Troops, appeared by his waiting for the German Recruits.' The Lord Lord Cowper. Cowper infilling upon the Necessity of having the Earl of Peterborough's original Iustructions: The Chairman put him E. of Abingdon. n mind of what already had been suggested, 'That there night be some Secrets in them, not proper to be made pubic: To which the Lord Cowper replied, ' That the Argu- Lord Cowper. nent upon a Probability, when there might be a Certainty, newed the Necessity of calling, at least for such Part of the aid Instructions as related to this Matter; urging, 'That' houlon might be mentioned in them; but it was material to now in what manner it was mentioned,' In Answer to this, he Duke of Argyle faid, 'That even supposing no mention D. of Argyle. has made of Thoulon in the Earl of Peterborough's Instrucions, yet it appeared very plainly, that he had concerted hat Project, from his Letter to Mr. Secretary Hedges, from Ar. Stanhope's Letter, and from the Earl of Galway's Coneffion.' The Earl of Scarsdale complaining of the Delays, EarlofScarsdale. nd of some Lords infisting on the same Thing; the Lord Hallifax answered, ' He defigned to make all Delay neces- L Hallifax. fary

rough.

Lord Hallifax.

Duke of Buckingham. Earl of Nottingham. Earl of Ifla. Question.

Third memorathe War in Spain.

Anno 9 Annz, fary to get a right Information : Urging, That the Bal of Peterborough had defired that Secretary Hedges be called and examined.' The Earl of Peterborough explained when Earl of Peterbo- he had faid about Sir Charles Hedges, averring, he only me. tioned him about the Letter his Lordship wrote to him French. But nevertheless, the Lord Hallifax infifted on the Necessity of having the Earl's Instructions laid before them; alledging, . That fince new Papers were daily produced to wards this Enquiry, why not these Instructions, which wen Earl of Rochef- as material as any of the rest?' The Earl of Rochester ward this Objection, faying, ' There was no Necessity to have those Instructions, fince they would be of no Use, for it is peared already very plainly that the Defign upon Thomas was known. The Duke of Buckingbam, the Earl of No. tingham, and the Earl of Ila spoke on the same fide; and a last, between eight and nine in the Evening, the Earl of Pas lett's main Question, about the Earl of Galway, Lord Tyrns Division on the ley, and Mr. Stanbope being put, it was carried in the Affimative, by a Majority of 64 Voices against 43; after which the Lords adjourned to the next Day.

On Friday, the 12th of January, the Lords being fet, 1 ble Debate on List of the Generals and Officers on the Establishmental Spain, which, by their Lordships Order, had been laid befor them, was found Fault with, because the Lieutenants and Enfigns were not mentioned in it, and another List was or dered to be laid before the House. Then several Papers wer read, particularly the following Letter from the Earl of Sm derland to my Lord Galway.

My Lord,

This is to acknowledge the Receipt of your Lordhin Letter by Mr. Stanbope from Valencia, of October the 29th N. S. together with a Copy of your Letter to the Lord & wers, of the fame Date. And to acquaint you, that is Majesty does approve of the Resolution of my Lord Rism landing his Forces in Valencia, and that fhe has feat in Directions to go forthwith, in Compliance with the Delin of the King of Spain, and your Lordship, notwithstanding any Orders he may receive from thence to the contrary, and having been fent some time.) I am commanded also, by Majesty, to acquaint your Lordships, how concerned the in the Uneafiness you are under in the Service, which makes my defire so much to retire; which Request her Majesty would deny, but that she is of Opinion, that, besides what related the Command of her own Troops, and an Influence that necessary to be had upon the King of Spain, there is no body but your Lordship that can possibly, in any fort, managet

1

t

tz

ti

ft

b

b

la

Earl

calle

men. im is

on the

ed to

Wen

vaved

have it apboulm Not-

nd at

Par

raw. Affir

vhich

et, 1 nt of

efore

and

s or-

Wert

Sm

hiph her him fires food her is to at a state of the state

Portuguese; so that, if you shall retire, that Alliance will be Anno 9 Ann quite useless, and consequently the whole Affair of Spain irretrievable. I am consident, when you restect upon this, you have her Majesty's Service, and the common Cause so much at heart, that you will have Patience, at least one Campaign more; and your Lordship may depend upon it, that there is nothing in the Queen's Power to do, to make you as easy as possible, and to remove the Difficulties you have hitherto struggled with, that will not be done. You will see by her Majesty's Letter to the King of Spain, how much she takes this to heart, and how strongly she insists upon his having an entire Considence in your Councils and Advice.

I will not fay any more upon this Subject : You will have it so much more strongly represented to you by my Lord Treafurer in his Letter, and by Monfieur de Montandre, when you fee him. I must also acquaint you, that the Queen has ordered my Lord Peterborough's Commission of Ambassador to be recalled, which, I hope, will contribute to make all that Matter more easy. Since his Majesty is willing to confent that the Troops with the Lord Rivers should join the King of Spain and the Troops in Valencia, it is expected they should be kept all together in one Corps, and under one General, that they may march strait to Madrid, without dividing themselves, or amusing themselves in taking inconsiderable Places, and such little Projects; the doing of which before, was one great Reason that this last Campaign you was not joined by any Body of Troops sufficient to keep you in possession of Madrid. This makes it yet more neceffary for your Lordship to stay: I am sure no body but yourself will have Influence, or Credit enough to keep them together; and to enable you the better to do this, the most effectual Measures will be taken to persuade the Portuguese to make the Diversion they have promised by the way of Toledo; and in order to it, they will be affured, that the Troops from Ireland that were to follow the Lord Rivers, shall be fent as foon as possible to join them, and enter Spain that Way. I must also acquaint you, that such Measures are taking with the Duke of Savoy, for the next Year's Campaign, as will effectually prevent the French sending any considerable Force more into Spain. I send you here inclosed a Copy of Monsieur Cavalier's Letter to the Queen; if you think what he proposes practicable, and that the Circumstances of Affairs do allow it, her Majesty thinks it would be of great Advantage to the common Cause; but that must be left to your Judgment. I gave you an Account in my last, that all the Cloathing was gone from hence, except that of eight Batallions. As for the fix Regiments, whose

Officers

1710-II.

Anno 9 Anne, Officers are to be fent home to raife their Men, it is be Majesty's Pleasure, that the Cloathing of the faid Rep ments be fent back, and that your Lordship would order Account of the Off-reckonings to be fent hither. 1 with great Truth,

My LORD.

Your Lordship's most humble.

And most obedient Servant,

SUNDERLAND."

ca

de

ra

E. of Scarfdale's Question.

The Clerk having done reading, the Earl of Scarfdak proposed the following Question: That it appears by the Earl of Sunderland's Letter to Mr. Stanbope, that the Defin of an Offensive War in Spain, was approved and directed by the Cabinet-Council, notwithstanding the Opinion of Gene ral Stanbope, in case of an Attempt upon France, which the knew was then concerted with the Duke of Savoy; which contributed to our Misfortunes in Spain, and to the Difap. pointment before Thoulon.

Refolution thereon.

After a small Debate, it was resolved to present an humble Address to the Queen, ' That she would be pleased to gin Leave to any Lord, or other, of her Cabinet-Council, in communicate to the House, any Paper or Letter relating in the Affairs of Spain.' This Address, by their Lordships Or der, was immediately carried up to the Queen at St. Famely by the Lords of the White-Staves, viz. the Dukes of But ingham and Shrewsbury: Who being returned, and the House (that had adjourned during Pleasure) resumed, as soon as the Queen, who designed to hear the Debate incognito, was come to the House, the Duke of Buckingham reported, 'That her Majesty had graciously been pleased to grant the Desin. of the Lords.

E. of Scarfdale's fecond Queftion.

The Lords being gone into a Committee of the whole House, and the Earl of Abingdon still in the Chair, the Earl of Scarsdale delivered the following Question, . That it ap pears by the Earl of Sunderland's Letter, that the carrying on the War Offensively in Spain, was approved and directed by the Ministers, notwithstanding the Design of attempting Thoulon, which the Ministers knew at that Time was concerted with the Duke of Savoy, and therefore are justly w be blamed for contributing to all our Misfortunes in Spain, and to the Disappointment of the Expedition against Thoulas!

Debate thereon.

The Lord in the Chair having read this Question, the Duke of Devon- Duke of Devonshire excepted against the Alteration that ha been made in it, particularly against changing the Word of Cabinet Council, which was in the Question first proposed by

D."

Sale of the

efign

d by

ene. they

bich

ilap.

mble

give , to

g to Or-

nes's,

Buck.

louie

s the

come

That

elin

hole

Earl

ying ected

gnisc

COn-

ly to

bain,

the

had

d of

the

he Earl of Scarsdale, into that of Ministers. To which Anno g Anne, he Lord Ferrers answered, 'That the Earl of Scarsdale 1710-11.

as at Liberty to make what Alterations he thought fit in Lord Ferrers, he Question, this being a new Committee;' and the Earl of Lord Ferrers, he Question, this being a new Committee; and the Earl of Earl of Scarsdale added, 'He thought fit to alter the Question, be Earl of Scarsdale the Word Ministers is better known than that of a dale.

Tabinet Council.' But the Earl of Wharton infisted, 'That Earl of Wharter to Committee was, in effect, the same, as when the first ton. Duestion was proposed, and as they were adjourned to conder it, no Alteration of a Question that lay already before hem, ought to be admitted.'

This Objection, which seemed to carry a great deal of Veight, was, however, removed by the Earl of Abingdon, E. of Abingdon, ho said, 'This was the same Committee; for the House as resumed, and then adjourned during Pleasure, before he ould get Directions to report.' And the Earl of Paulett Earl Paulett, aving moved the debating of the second Question, the Duke seems for Beaufort said, 'He wondered any Lord in the Ministry Duke, of Beaufould approve and direct an Offensive War in Spain, at that fort.

hould approve and direct an Offenfive War in Spain, at that functure: And in particular named the Earl of Sunderland.

Hereupon the Lord Cowper, in answer to what had been Lord Cowper, ledged by the Earl of Scarsdale, to justify the Alterations hade by his Lordship in the Question, said, . That in his pinion the Word Minister or Ministry, would run into the me Exception with Cabinet Council; that they were both ferms of an uncertain Signification, that there was besides the Question the Word Ministers in the plural, which nplied many: And therefore he moved, that the Earl of underland's Letter might be read, that it might appear. hether one Minister only, or more, approved and directed n Offensive War.' There being several Letters of the Earl Sunderland's lying on the Table, the Chairman of the ommittee defired to know, which of them their Lordships ould have read? To which it was answered, ' That of sbruary 14th, 1706-7. O. S. in answer to Mr. Stanbope's etter of the 15th of January, N. S.' Upon which the lerk was directed to read that Letter, importing in Subance, 'That he was forry they three only (meaning the ords Galway and Tyrawiley, and Mr. Stanbope) were of that pinion; that nothing but Interest could incline others to he contrary; that the dividing the Army would be the uin of all; that the Queen entirely approved what he Mr. Stanhope) had done in the Council of War, as he would e more at large in the Inclosed from my Lord Treasurer. hat this was so much the Queen's Opinion, that she had ritten in the most pressing Terms to King Charles about it. hat, as for the Earl of Peterborough's Projects in Italy, the less

3710-11.

lane 9 Anne, less Attention Mr. Stanbope gave to them the better. he fent him a Letter for the Earl Rivers, which he Mr. Stanbope to deliver to him, if he took upon Command of the Army, by the Lord Galway's giv Which, however, the Earl of Sunderland hoped, 1 not do: In which last Case Mr. Stanbope was defired that Letter: Concluding, that the Lord Treasurer had tled the Remittances for the Army, &c.'

Lord Cowper.

After the reading of this Letter, the Lord Cowper fail · He could not find a Connection between the Premifes fon the faid Letter) and the Inference in the Question: And the fore, if it should pass into a Resolution, he would enter in B. of Rochefter, Protest.' To which the Earl of Rochefter replied, with for Vehemence, ' That after the Message that had been sent the Queen, and her Majesty's gracious Answer, he did m expect to hear of fuch an Objection; as that there was Connection between the Premises and the Inference; that he knew very well the Meaning of that Objection; that he several Years past they had been told, that the Queen was a

Lord Cowper.

answer for every thing; but he hoped that Time was over that according to the fundamental Conflitution of this King dom, the Ministers are accountable for all : And therefor he hoped no body would, ____ nay, no body durft, name the Queen in this Debate.' On the other hand, the Lo Cowper infifted, . That the Alteration made in the Quelin ought to be explained; ' urging, ' That the Word Minife is of an uncertain Signification, and Cabinet Council a Wor unknown in our Law: That if that august Affembly po ceeded to a Censure upon Men, the World ought to know who they were: That he hoped the Lord who proposed the Question, would explain himself; and hoped, at the far time, that if any body were accused, it would appear to without Ground: That he had the Honour to be one of the Ministry, and did not know whether it was defigned to volve him in the same Censure; but he protested, with the utmost Sincerity, that while he was in that Post, he gave Advice, and acted to the best of his Understanding, and with an honest Intention to serve the Queen and his Country.'

E. of Scarfdale.

After this, the Earl of Scarfdale faid, " He thought ! Word Ministers very proper; and that the Lord Treasure that is, the Lord Godolphin, was named in the Earl of Sun land's Letter.' The Earl of Paulett urged, 'That then no Distinction between the Ministry and the Cabinet Com cil; for those who were of the Cabinet were Ministers.' tho' the Duke of Beaufort spoke on the same side, his Gm faid, 'That the Word Cabinet Council does not imply Ministers.' And the Lord Ferrers added, & That the Wo

Earl Paulett.

Lord Ferrers.

Ministry is more copious than Cabinet Council, but however, Anno 9 Anna, 1 was indifferent which they took.' To this the Earl of 1710-11.

That fince the Word Ministers was more opious, it was therefore improper in this Case, because their phin.

Lordships ought to be sure whom they designed to censure.

And then taking notice, how late it was in the Night, and that a Person concerned in this Debate was absent, he moved

or adjourning.

7 Gil

s (viz.

ter his

o force

ent w

d no

nat he

at for was to

OVET;

King. refore

name Lord

estion
missen
Word
proknow
know
d this
fame
to be
to inh the
with

furer, mdeherel Coun-But Grace y all World

Hereupon the Duke of Leeds made a pretty long Speech; Duke of Leeds. he most material Passage in which was, ' That her Majesty aving given Leave for any Lord, or other of the Cabinet Council, to communicate what they knew about the Affairs of spain, no Offence could be taken if any Person cleared him-est. Upon which the Lord Cowper said, 'He knew not Lord Cowper. whether he was included in the Word Ministry.' Hereupon he Earl of Paulett faid, . This was the first time that this Earl of Pauletts nice Distinction between Cabinet Council and Ministry was nade a Dispute, which looked like a Delay.' And the Earl of Isla faid, on the same Side, That it was irregular and Earl of Isla. mproper to take Notice, in this Debate, either of the Adreis to the Queen, or of the Question proposed before, in oth which the Word Cabinet Council was inferted; that it was true, this Word was not commonly known in the Law, heither was the Word Ministry, and therefore they ought to fe a plain English Word. That he could mention an Inlance at the Revolution, when a * Word of an uncertain Sigification occasioned much Debate. That he wished, if the Question should pass with the Word Ministers, they would nention two Lords that had been already named e should be forry to hear, or repeat the Sound lowever, he thought it necessary to name them.' To this he Lord Hallifax answered, ' That the mentioning the Ad- Lord Hallifax, ress and former Question, was not improper; that they were lating the Signification of two synonimous Words of great Weight and Importance in this Case; and therefore he deired, that the Address to the Queen might be read.' This being done accordingly, his Lordship added, ' He wondered t the Method used on this Occasion: For he understood the Queen was defired to give an immediate Answer to this Adres; with an Intimation, That the House was sitting, expecting her Majesty's Answer, which was not usual.' Herepon the Duke of Argyle faid, . He thought what the noble Duke of Argyle, lord that spoke last had said, was accusing the House of loing an Uncivility to the Queen. At which feveral Lords rying, Go on! Go on! the Lord Hallifax faid, Lord Hallifax, That if their Lordships looked on their Journals, they would not find it usual.

1710-11. Tt The

Meaning the Word ABDICATES

(322) The Earl of Paulett appealing to the Lords, ' Whether Anno o Annæ, 1710-11. the Words immediate Answer were ever mentioned?' The Duke of Buckingham faid, & He never heard any such thing E. of Paulett. spoken; and if he had, he would rather have gone to the Tower than have carried such a Message. Upon which the Lord Hallifax excused what he had said, alledging, the Duke of Bucks. Lord Hallifax. was not in the House when the Address was sent, but had been told, that a Motion for an immediate Answer was made; which he believed was without a Precedent.' To Earl of Ferrers, this the Earl of Ferrers answered, 'That no such thing had been mentioned, but if it had, it would not have been ung. fual; for he remembered such a Message was sent to the late King William, when he lay fick. That they had been long debating about the Words Ministers and Cabinet Cour. cil; and that, to prevent all Exceptions, both might be put in Earl of Peterbo- the Question.' Hereupon the Earl of Peterborough faid, very shrewdly, . That he thought the Word Cabinet Council no sough. fo proper as Ministers: _ That he had heard a Diffinc. tion between the Cabinet Council and the Privy Council; that the Privy Councillors were fuch as were thought to know every thing, and knew nothing; and those of the Cabina Council thought no body knew any thing but themselves: And that the same Distinction might, in great measure, hold, as to Ministers and Cabinet Council. That the Word Cabinet Council was, indeed, too copious; for they disposed of all; they fingered the Money; they meddled with the War; they meddled with Things they did not understand: So that, fometimes, there was no Minister in the Cabinet Council! The Lord Hallifax infilting against the Alteration made in Lord Hallifax. the first Question, and pressing their Lordships to speak to the same Words they had used in their Address to the Earl of Rochef- Queen. The Earl of Rochester renewed his former Expoltulation, ' That, for several Years together, the Queen was to answer for every thing; instancing in the Time when the Memorial of the Church of England was indicted, and the Church was suggested to be in Danger, (which for his Part, his Lordship thought to be so, in the Hands of some Men) when the Answer was ready, to stop People's Mouths, What to suspect the Queen!' He added, ' That the Distinction between Cabinet Council and Ministers, was a mere Nicey used only to delay. That he knew the Lord Godolphin was in that high Station.' And concluded with a Motion, . That the Lords would give an Account of what they knew, pro-

vided they would speak to the Point in Question, and not to Duke of Argyle. Nicety.' The Duke of Argyle said, 'He thought all Minifers were of the Cabinet Council, but that all the Cabinet Council were not Ministers.' The Lord Cowper urged 'the Ambiguity

ether. The

hing

the

the

He had

Was To

had

unu-

the

been

OKN-

at in

very

not

inc-

that

now

inet

res:

old,

abi-

of

ar;

hat,

cil!

e m

C to

the

Was

the

the

art.

en)

at!

IOR

01

gi-

Ambiguity of those two Terms, as an Argument against Anno & Anna, using them; the rather, because of four of the Lords that were for the Question, two were of one Opinion, and two of another. That, however, he hoped they would drop this, and debate the main Question. That for his own Part, he was of Opinion, that the War in Spain ought to be Offenfive That this was the Sense of the whole and not Defensive. Kingdom. That he did not remember, that, when the Earl of Peterborough's Letter to Sir Charles Hedges, about his Lordship's Projects, was read, there was any Difference of Opinion in the Council: All being unanimous for an Offenfive War with Spain. That when the Project against Thoulon was concerted with the Duke of Savoy, his Royal Highness never defired that the War might be Defensive in that That it was unreasonable and unprecedented to Kingdom. censure Men for an Opinion, because it had proved unsuccessful; and that, for his own Part, he gave his Advice with the best and most sincere Intentions to serve his Country.'

To this the Earl of Peterborough answered, That one Earl of Peterbowould be apt to think the Ministry were, indeed, for a De-rough.

fensive War, when they suffered him to want Men, Money, and all Necessaries. That the he had Instructions to treat about the Siege of Thoulon, he had Letters of Revocation fent him on a fudden; which, however, he fent back unopened, because having appeared, in several Courts, with the Character of Ambassador Plenipotentiary, and the Duke of Berwick having taken his Credentials, he could not give Re-creden-That his Project, as trifling as it was accounted by the Ministry, would have taken Thoulon, whereas the regular Project proved abortive. That when he came home, he was coldly received and difregarded, but preferved himfelf, not only by his Integrity and little Services, but also by Caution and Patience.' After this, his Lordship explained his Project upon Naples, which was to have been put in Execution in February: Adding, 'That by the Reduction of that Kingdom, which was already disposed to declare for King Charles, and by the Conquest of Sicily, the Allies would have had 20,000 Men to act against France, and Plenty of Provisions to supply their Forces in Spain. As for Thoulan, that it might have been invested in the Winter, when there was no Garrison to defend it.' And to prove that he had concerted the Siege of that Place with the Duke of Savoy, his Lordship produced a Letter from his Royal Highness; but offering to read it, several Lords cried, No, no. In anfwer to the Earl of Peterborough's Speech, the Earl of Godol- Earl of Godol-

phin faid, 'He would give their Lordships an Account of phin, his Thoughts and Reasons, why that noble Earl's Project

Tt 2

was

1710-11.

Anno o Anne, was not approved, viz. That the very Overtures of it, it transmitted hither by the Earl of Peterborough, in a Letter, in French, to Sir Charles Hedges, read the Day before, flew. ed, that it was impossible the Duke of Savoy could be in earnest, the other Project being already concerted; and his Ministers here earnestly desiring, in his Royal Highness Name, that it might be an absolute Secret; so that even Prince Eugene knew nothing of it, at the time the Earl of Peterborough wrote that Letter.'

b

Earl of Nottingham.

Hereupon the Earl of Nottingham standing up, said, That it was too common to judge of Men by the Events: But God forbid that House should follow that Method. That he would give the Lords his Thoughts, why he should not, at that Juncture, have been for an Offensive War: That he would not speak as a Soldier, because he was none, but would speak only to Matters of Fact; and if he was wrong, he defired any Lord there would rectify him. That he had no Pique, no Animofity against any body, and would have Justice done without Partiality. That it appeared by the Account, or Representation the Earl of Galway gave of As. fairs, towards the end of the Year 1706, or beginning of 1707, that we were in fo good a Condition in Spain, that nothing could hurt us: And yet, notwithstanding the Reinforcement which the Earl Rivers brought to Spain, there were not above 14000 Men at the Battle of Almanza. That in such Circumstances, the advising an Offensive War, was a very ill Council: And therefore he concluded for the Que Upon this the Earl of Sunderland owned, "He gave his Opinion for an Offensive War, because, to the best of his Understanding, it was the best Council that could be fol-That it was the general Opinion and Defire of the Nation, that the Earl of Galway should march again to Madrid; that all the Ministry then were unanimous in their

Earl of Sunder- ftion.' land,

Duke of Marlberough.

ences might have attended the dividing of the Army.' 'My Lords, (faid the Duke of Marlborough) I had the Honour of the Queen's Commands to treat with the Duke of Savoy, about an Attempt upon Thoulon, which her Majely, from the beginning of this War, had looked upon as one of the most effectual Means to finish it. And I can assure you, that in the whole Negociation, with his Royal Highnes's Ministers, one of whom, Count Briancon is dead, the other, Count Maffey, is now here, not one Word was spoken of Spain, where the War was to be managed upon its own Bottom, as well as that of Italy; and both independently upon one another. 6 As

Opinions for an Offensive War; and that many Inconveni-

My Lords, my Intentions were always honest and sincere, to contribute all that lay in my Power, to bring this heavy and expensive War to an end. God Almighty has blessed my Endeavours with Success: But if Men are to be censured when they give their Opinions to the best of their Understandings, I must expect to be found Fault with as well

as the reft.

it, at

etter,

hew.

be in

id his

neis's

even

arl of

That

: But

at he ot, at

t he but

ong,

e had

have

the

Af-

g of

that

ein-

here

That was

Que-

gave

t of

fol-

the

1 to

heir

eni-

the

e of

fty,

fs's

er,

of

ot-

My Lord Galway, and every body in Spain, have done their Duty: And though I must own, that Lord has been unhappy, and that he had no positive Orders for a Battle; yet I must do him the Justice to say, that the whole Council of War were of his Opinion, to sight the Enemy before the coming up of the Duke of Orleans, with a Reinforcement of 9 or 10,000 Men.

On the other hand, I must confess, I do not understand, how the separating of the Army would have savoured the

Siege of Thoulen.'

The Earl of Peterborough saying thereupon, 'That there Earl of Peterbowas a Necessity of dividing it to go to Madrid.' The Duke of rough.

Marlborough resuming his Speech said, 'I will not contra- Duke of Marldist that Lord as to the Situation of the Country; but this Se-borough. paration of the Army could not be in order to a Desensive but to an Offensive War; which, in my Opinion, was the best Way to make a Diversion, and thereby hinder the French from relieving Thoulon.

But after all, that unhappy Battle had no other Effect, than to put us upon the Defensive; For the French Troops that were detached from Spain, never came before Thoulon.'

The Duke of Argyle having answered this last Part of the Duke of Marlborough's Speech, viz. That the Battle of Almanza did but put us upon a Defensive in Spain: Added, That as for what related to the Earl Rivers, it was certainly a Fault to prefer an unfortunate Foreigner before a Peer of Great Britain. To which the Lord Coveper replied, That Lord Cowper. the answering Mr. Stanhope's Letter, by approving his Advice, was certainly the wiser, the honester, and the more popular Opinion; every body in England being then for an Offensive War. That he wished every Member in that august Assembly would lay his Hand upon his Heart, and say, in Conscience, whether he would not have been of the same Opinion? That to have advised a lingering, expensive, De-

Anno 9 Anna, fenfive War, would, no doubt, have now been made morecile minal than this Charge, which was heavy enough. The the raifing the Siege of Thoulon, could not, in Realon, be in puted to the Offensive War in Spain, and to the Loss of the Battle of Almanza; but rather, to the Expedition to Nasha the flow March of the German Recruits, through the Coun. try of Grifons, and other unforeseen Accidents, which attend all human Affairs : But, (added his Lordfhip,) if this Quelle should pals into a Resolution, it will be the Comfort of the on whom the Cenfure will fall, that the World will judge, the it is founded on strained Deductions, and forced Confequences, foreign from the Premises. My Lords, all Englishma love Action, it is their Temper and Inclination. clude, I repeat it again, it will be a Confolation, that the Conclusion is not warranted by the Premises.

Earl of Paulett.

The Earl of Paulett answering, . That the Battle of A manza was a necessary Consequence of the Opinion and D. Duke of Deven- rections of the Ministry.' The Duke of Devonshire replied . He remembered that the Lords themselves, that now spoke against an Offensive War in Spain, were for it some Yearsh. fore; that, among the rest, the Earl of Nottingham moved in twenty Batallions to be fent from Flanders to Spain, while could not be for a Defensive War; that, after the Battle of Almanza, no French Troops were fent from Spain to relien Thoulon; and, in short, that an Offensive War is always the most effectual Means to procure a Peace.' To this the Date Duke of Shrewf- of Shrewfoury answered, ' That in all Things the Circus stances ought to be confidered; that an Offensive Warm

bury.

be proper at one Time, and improper at another. That having been urged, that no French Troops were fent for Spain to relieve Thoulon, it was certain, some Troops were ordered, and upon their March, whose Approach might have the same Effect, as if they had actually arrived in Provent That it is true, this Nation is for fighting, and for an Off five War; but not for going to Madrid right or wrong, as we General Stanbope's Opinion, approved by the Ministry That the Lord Galway had a good Reason to fight, became he could not help it. But that there was no Reason for the Ministers here, to give that Opinion, because nothing ford Buke of Devon- them to it.' The Duke of Devonshire taking Advantage a

this Occasion, said, ' That fince the Allies could not sub without fighting, it was unreasonable to censure the G nerals who gave their Opinions for a Battle.'

Earl of Nottingham.

The Earl of Nottingham owned, on the other fide, 'The he made the Proposal for sending 10000 Men from Flands to Spain; but that was after the Battle of Almanza; at that only 7000 were fent. That, as to the Bufiness 10 五 点

of the

Coun-attendation thousand

quen-fonce con-

t the

of Al. d Di.

policies to the second

le of elieve ys the Duke

cun-

is di

Thoulen, it was certain, that, immediately after the News of Anno , Anno the Battle of Almanza, the Court of France ordered Detachments to be made from Spain, as appeared by the Paris Gazette of the 4th of May, 1707. That he would not affirm hose Troops did actually march into Provence; but that, as had been observed, their Approach was sufficient to contribute to the raifing of the Siege of Thoulon.' After this, the Earl Rivers faid, 5 That it had been alledged, that the Bat- Earl Rivers le of Almanza was fought because the Allies wanted Provifions; but he could affure their Lordships, that there was Gentleman here in Town, who brought them Provisions for eight Days. That, in truth, they did not defign to fight, but rather to retire towards Valencia, having, for that Purpose, sent General Carpenter before, with Part of his Dragoons: But, upon the Receipt of Orders from England, they suddenly resolved upon a Battle, before they were joined by General Carpenter, and without communicating to the Council of War the Strength of the Enemy, of which they had Intelligence by two Deferters the Night before the Action.' Hereupon the Earl of Ferrers faid on the fame Earl of Ferrers, Side, 'That it was plain, the Council of Valencia was the Cause of all our Missortunes in Spain. That the Resolutions taken in it, were carried against the Opinion of King Charles, and his Ministers. That it was certainly a Eault in the Ministry here to approve that Council; for a Secretary of State gives no Direction but from the Cabinet-Council. That it feemed as if the Blame of the raising the Siege of Thoulon, was intended to be laid on the Emperor's Forces; but this Enquiry would be more proper at another time: And that another thing was to be enquired into, wiz. What Number of Forces in her Majesty's Pay were, at that time, in Spain? And so concluded for the Question.' The Lord Mohun, on the other Side, faid, He was against it, for feve- Lord Mohun, ral Reasons; 1st, Because he knew not who was meant by the Ministry; and he would not have a Censure pass upon Persons, who neither deserved, nor were intended to be censured. 2dly, Because the Advice of an Offensive War was, at that time, no ill Advice. 3dly, Because he would be just to all Mankind, and not censure any body that gives his Opinion to the best of his Understanding, and with an honest Intention.' The Lord Somers owned freely to their Lord Somers. Lordships, . That, had he been in the Place of those that gave the Council for an Offensive War, he would have been of that Opinion, because he should have thought himself an ill Councillor to advise any thing against the general Opinion: adding, 'That the ill Success of the Battle of Almanza was no good Argument against the Council for an Offensive

Anno 9 Annæ, 1710-11. Earl Rivers. Earl of Rochef-

War; for, if they judged of Opinions by Events, no Man could be fafe.' The Earl Rivers having owned there might be other good Reasons, why the Thoulon Business did not fucceed, the Earl of Rochefter faid, 5 That, for his own Part, he must confess, that, had he, at that time, been of the Cabinet Council, he could not have been for an Offenfire War; nor would popular Arguments have swayed his Opi. nion; for he could not fee the Reason, that, because the People love Action, we should be perpetually fighting. Concluding, upon the whole Matter, that he was for the Question.

Sishop of Ely.

Several Lords calling for the Question, and the Chairman rising in order to read it, the Bishop of Ely said, 'He had only one Word to offer, which was, that it not appearing to him that there was any premeditated ill Defign in the Ministry, when they gave their Opinion for an Offentive War, he could not be for the Question.' The Duke of

Duke of Argyle. Argyle having defired, that when the Question was ore, he might offer another; the same was readily agreed to: And then the Earl of Abingdon put the following Question:

The Question.

That it appears by the Earl of Sunderland's Letter, that the carrying on the War offensively in Spain, was approved and directed by the Ministers, notwithstanding the Design of attempting Thoulon, which the Ministers knew at that time was concerted with the Duke of Savoy, and therefor are justly to be blamed for contributing to all our Misfortunes in Spain, and to the Disappointment of the Expedition against Thoulon.

Division thereon.

There happening a Division, the Earl of Portland and Isla were appointd Tellers, and, it appeared, that there were 68 Lords content, and 48 not content.

Duke of Argyle.

After this, the Duke of Argyle made a Speech, importing, in Substance, 'That he was informed, that the Earl of Pa terborough had the Queen's Commands to negotiate Matter of great Importance, and was to fet out the next Day. That he hoped every Member of that House was convinced, that he had performed great and eminent Services to his Country, notwithstanding the Difficulties and Difcouragement he laboured under; and how, with a Handful of Men, his Grace thought he might call them a Handful, fince they never amounted to ten thousand Men, he took the important City of Barcelona, and reduced so many Provinces of Spain. That he needed not tell their Lordships how he had been rewarded for those great Services: But that it was his Opinion, they ought to pass a Compliment upon him, which was all the Reward they could, at that time, bestow:

And therefore it was his Grace's Motion, that this Question Anno 9 Anna, be put.

That the Earl of Peterborough, during the Time he had Motives that the Honour of commanding the Army in Spain, did perform L. Peterborough many great and eminent Services; and, if the Opinion he may have the gave in the Council of War at Valencia had been followed, Thanks of this it might, very probably, have prevented the Misfortunes that have happened fince in Spain.

Which is agreed to.

This Question being carried, without dividing, the House was resumed; and the Earl of Abingdon having reported the two Resolutions taken in the Committee, the Lord-Keeper put the same Questions, severally, to the House, which were again agreed to. But before the second Question was put, the Earl of Wharton defired, That the Lords, who were for E. of Wharton. the first Question, might say, Agreed, and that such Lords as were against it might enter their Protestations.' Which they did accordingly.

A Motion for adjourning to the Monday following being made, the Earl of Rochester made another Motion, that such E. of Rochester. Lords as pleased, might make Animadversions on the Protellations of fuch Lords as should protest; which was agreed to. Then the Duke of Buckingham faid, one thing more Duke of Buckwas to be done before they adjourned, and that he would ingham. propose a Question, which he was fure would be readily agreed to, viz. 'That the Earl of Peterborough have the Thanks of the House for his eminent and remarkable Services; and that the Lord Keeper return him the Thanks of the House, immediately.' This Question being unanimously agreed to, the Lord Keeper addressed himself to the Earl of Peterborough, in the following Speech.

My Lord Peterborough,

'I am commanded by my Lords to return their Thanks to Lord Keeper's your Lordship, for your many eminent and faithful Services Speech in givto your Queen and Country, during your Command in ing the Thanks of the House to Spain. Lord Peterborough.

My Lord,

Man light

not

Part,

the

nfive

Opi.

the

ting.

the

man had

ring

the

nfive

e of ver,

to:

on:

that

oved

fign

that

fore

sfor-

tion

and

Were

ing, Pe

tters

That

that

ouns he

his

they

por-

s of

y he

Was

ıım, OW:

And

'The Thanks of this illustrious Assembly is an Honour which has been rarely paid to any Subject; but never after a stricter Enquiry into the Nature of any Service; upon a more mature Deliberation; or with greater Justice, than at this time to your Lordship.

'Such is your Lordship's known Generosity and truly noble Temper, that I assure myself, the Present I am now offering to your Lordship, is the more acceptable, as it comes pure and unmixed, and is unattended with any other Re-1710-11.

Anno 9 Annæ, ward, which your Lordship might justly think would be as 1710-11. Allay to it.

My Lord,

Had more Days been allowed me than I have had Minutes, to call to mind the wonderful and amazing Succes, which perpetually attended your Lordship in Spain, (the Effect of your Lordship's personal Bravery and Conduct) I would not attempt the enumerating your particular Service, since I should offend your Lordship, by the Mention of such as I could recollect; and give a just Occasion of Offence me this honourable House, by my involuntary Omission of the far greater Part of them.

Had your Lordship's wise Councils, particularly your Advice at the Council of Valencia, been pursued in the solution of Campaign, the state Battle of Almanza, and our greatest Missortunes, which have since happened in Spain, had been prevented, and the Design upon Thoulon might have

happily succeeded.

"I shall detain your Lordship no longer than in Obelience to the Order I have received, to return your Lordship as I do, the Thanks of this House, for your eminent and remarkable Services to your Queen and Country, during your Command in Spain."

The Earl of Peterborough's Answer.

My Lords,

His Lordship's Answer.

For the great Honour and Favour I have received from your Lordships, I return my most humble Thanks, with Heart full of the greatest Respect and Gratitude. No Services can deserve such a Reward. It is more than a servicent Recompence for any past Hardships; and to which thing can give an Addition. I cannot reproach myself with any want of Zeal for the Public Service: But your Loss ships Approbation of what I was able to do towards serving my Queen and Country, give me new Life; and I shalled deavour, in all my suture Actions, not to appear unworthy of the unmerited Favour I have received To-day from the great Assembly.

The Lords Pro- The Protests which many of the Lords entered, were test on the Vote follow:

Peterborough's Accou t.

January the 9th, 1710, Refolved, That the Earl of heterborough has given a very faithful, just, and honounds Account of the Councils of War in Valencia.

January the 11th, 1710. To the Questions for rejection the Petitions of the Earl of Galway and Lord Tyrawly.

DSentien

Diffentient'

be an

d Mi.

iccefs,

the

net) I

Vices.

f fuch

of the

your e fol-

d our Spain,

have

bedi-

dhip,

t and

uring

from

ith a

Ser-

feff.

h no

with

Lord-

Ving

ll en-

orthy

this

Te al

f Pe

rable

aing

tien

Anno 9 Annæ 1710-11.

Because, that when a Question was stated in the House. which feemed to us to import a Censure on the Conduct of the Earl of Galway, Lord Tyrawley, and General Stanhope, the two Lords being now in Town, should, we conceive, have been heard in their Defence, before the Question passed, tho' they had not petitioned to put in their Answers; much less ought the faid Petitions to have been rejected. And, we think, that their having been before examined, only as to what they remembered concerning the Council in Valencia, (when they did not know that any, much less what Censure was intended upon the Opinions given at that Council) is not fufficient to fatisfy what we apprehend to be the Rule of natural Justice, that every one should have an Opportunity of answering for themselves, at least, upon these their humble Petitions, before what we take to be a public Censure should pass upon them.

Bedford, Hallifax, Leicester, Ashburnham, Devonshire, Haversham, Sunderland, Wharton, Kent, Lincoln, Dorchester, Berkley. Gilb. Sarum, R. Peterborough, Rockingham, Mohun, Marlborough, J. Winton, W. Carlisle, Jo. Landaff, Joh. Litchfield and Coventry, Stamford, Orford, Somers, Cowper, W. Lincoln, Scarborough, W. Asaph, J. Bangor, Herbert, Hervey, Bridgewater, Godolphin, J. Ely, C. Norwich, Dorfet.

Then it being moved, That the Earl of Galway and Lord Tyrawley (if without) might be called in and heard, it was ordered accordingly; and they not being present, the House, according to Order, was adjourned during Pleasure, and put into a Committee to take into farther Consideration the present State of the War in Spain.

After long Time spent therein, the House was resumed, and the Earl of Abingdon reported, That the Committee had

come to the following Resolution, viz.

That the Earl of Galway, Lord Tyrawley, and General Stanbope, infifting at a Conference held at Valencia, some Time in January, 1706-7, in the Presence of the King of Spain, and the Queen's Name being used in maintenance of their Opinion, for an Offensive War, contrary to the King of Spain's Opinion, and that of all the General Officers and Public Ministers, except the Marquis das Minas; and the Opinion of the Earl of Galway, Lord Tyrawley, and General Stanbope, being pursued in the Occasions of the following Campaign, was the unhappy Opinion of the Battle of Almanza, and one great Cause of our Missortunes in Spain, U u 2

Anno 9 Annæ, and of the Disappointment of the Duke of Savoy's Expedi. tion before Thoulon, concerted with her Majesty.

> And the Question being put, That the House agree with the Committee in the faid Resolution?

It was resolved in the Affirmative.

Dissentient'

If, Because we conceive, that the Proofs which have been before the House were not sufficient to warrant the Facts a

they were stated in the Question.

2dly. Because we conceive, that the said Proofs do not sup. port the Consequences drawn from the Facts stated in the Question; especially the Disappointment of the Expedition against Thoulan, which (as we humbly apprehend) was clear. ly occasioned by other Causes, and not by the Cause assigned in the Question.

adly, Because we conceive, it may be of dangerous Confe quence, if those who may have the Honour to serve the Queen in Spain, should from hence have Reason to apprehend, that they may be censured for presuming to infit a fuch Opinions, as shall appear to them to be most for the Queen's Service, and the common Cause, if contrary to the King of Spain, and his Ministers.

The same Lords subscribed to these Reasons, as to that of rejecting the Petitions.

January the 12th, The House, according to Order, was adjourned during Pleasure, and put into a Committee to take into farther Confideration the present State of the War in Spain: After a long Time spent, the House was relumed, and the Earl of Abingdon reported, that the Committee had come to the following Resolutions, viz.

Resolution of

1 ft. That it appears by the Earl of Sunderland's Letter. the Committee. that the carrying on the War Offensively in Spain, was ap proved, and directed by the Ministers, notwithstanding the Defign of attempting Thoulon, which the Ministers, at that Time, knew was concerted with the Duke of Savoy, and therefore are justly to be blamed for contributing to all out Misfortunes in Spain, and to the Disappointment of the Expedition against Thoulon.

> 2dly, That the Earl of Peterborough, during the Time he had the Honour of commanding the Army in Spain, did perform many great and eminent Services; and if the Opinion ht gave in the Council of War at Valencia had been followed, it might, very probably, have prevented the Misfortunes that

have happened fince in Spain.

Then the first Resolution being read by the Clerk, the Question r pedi.

With

been

ets as

t fup.

in the

dition

clear.

igned

onfe-

e the

ppre-

it on the

o the

at of

Was

take

r in med,

had

tter,

ap-

the

that

and

out

Ex-

had

orm

he he

l, it

that

the

100

Question was put, That the House do agree with the Com-Anno 9 Anna, mittee in this Resolution?

It was resolved in the Affirmative.

.Diffentient' Because that, considering the Army of the Allies in Spain Protest on the was to receive fo great an Addition of Troops by the Supply first Resolution. fert under the Earl Rivers, the general Defire and Expectation of the Kingdom to have the War brought to a speedy Conclusion, and all other Circumstances of the War, as it then stood; we are of Opinion, that an Offensive War was then fittest for those in her Majesty's Service to advise; and we do not find Reason, by any thing arising on the Examisations and Debates, to be of another Opinion; the Occasion of fighting the Battle of Almanza, depending, as we conceive, on Causes subsequent to that Advice; the ill Succels of it, as we apprehend, being justly attributed to other manifest Reasons, and the real Design on Thoulon, as finally adjutted with the Duke of Savoy, not requiring, as appears to us, the Affistance of any Forces from Spain.

Devonshire, Kent, Lincoln, Wharton, Godolphin, Gilb. Sarum, Somers, Jo. Litchfield and Coventry, W. Asaph, Dorset, Jon. Winton, Sunderland, Bolton, Bedford, Leicester, Stamford, Rockingham, Scarborough, J. Ely, W. Lincoln, Jo. Landaff, Herwey, Rich. Petriburg, J. Bangor, Marlborough, Dorchester, Orford, Herbert, Mohun, Cowper, Ashburnham, C. Norwich, Bridgewater, Derby, Carlisle, Berkeley.

The Earl of Galway's Reply, or Observations upon the Earl of Peterborough's Answers to the five Questions proposed to his Lordship by the Lords, are as follows:

Your Lordships having been pleased to allow me a Copy of all such Papers as have been produced, to prove the Truth of the Earl of Peterborough's Answers to the sive Questions that were proposed to him by this honourable House, together with a Copy of those Questions and Answers, with Leave to answer to any such Part thereof as I might conceive myself to be concerned in, and have not already sufficiently explained in my Narrative, I do take the Liberty of observing to your Lordships, that,

The Earl of Peterborough, to the first Question, is pleased to say, The Management of the War in Spain, when under the Conduct of other Generals, was not only supported with great Numbers of Men, and vast Sums of Money, but also with notorious Falshoods, published in their Favour, to excuse their repeated Disgraces. Whereas his Lord-

fhip

1710-11.

Anno 9 Anne, ship cannot but remember, that when he failed from Portugal with the King of Spain to Barcelona, he left only one Regiment of Horse, and five of Foot, under my Command in that Country; I have voluntarily offered him, and he a freely accepted of two Regiments of Dragoons from Por. tugal, and four Batallions of Foot from Gibraltar, which ! had fent to the Defence of that Place.

I declare, I never traduced the faid Earl's Conduct, either by Letters or otherwise, tho' it seems the Queen had been fully informed thereof, particularly in regard to the Milion. derstanding between his Lordship and the King of Spain, to which his Catholic Majesty has attributed his Delays in marching to his Capital, as may appear by Count Gallais Memorial, a Copy whereof lies upon your Lordship's Table. It is well known, the first Disgrace that ever happened to m in Spain, was occasioned by his Lordship's not joining uin Time at Madrid; and all the Misfortunes that attended or

afterwards, were owing to that Neglect.

'His Lordship is pleased to fay farther in his Answern the same Question, ' That to excuse the fatal Battle of A manza, a King was to be used at that rate, as to have it, in an Account, printed by Authority, declared, that he took Numbers amounting to 4 or 5000 Men, from a Battle to be fought for his Crown, the very Regiments of Horse and Fox mentioned by Name: Whereas it is notoriously known to the whole World, that he took only about 200 miferable Spanish Dragoons; and that of the Regiments mentioned to be taken away from the English General in Valencia, some of them were never in being; others were Regiments of Trained Bands in Barcelona; and none of them within 250 Miles of that Place.' - Whereupon I beg Leave to obferve, That, notwithstanding the Earl's Resectionon that Paper published by Authority, the Account therein printed is fo far from having been exaggerated, that there were allaally some Batallions of Regular Troops absent in Catalonia, besides those mentioned in the Gazette, June 1707; and feveral Officers who were at Almanza can depose, that then was not one Spanish Corps, either Horse, Foot, or Dragoons, on our Side, at that Battle.

' If Part of the King's Forces were at 250 Miles Diffance, that may be a Reason why they could not be at the Battle; but none can be given for their being at that Distance, except in the Case of some few Garrisons, which might, indeed, have been necessary, but could not require above fix or seven Batallions, whilft the Army was then in the Field; whereas his Catholic Majesty had, at that Time, in his own Pay in Spain, above 6000 Men, besides the Dutch and English that

th

0

were in Arragon and Catalonia. And those Regiments which Anno 9 Anne, the Earl is pleased to call Trained-Bands, because they bore 1710-11.

or substitted them, are no more so, than the Regiments of Pi-cardy and Burgundy in France, tho' newly raised.

rtugal

Regi.

nd in

he as

Por-

ich I

either

been

lifun.

in, to

ys in

llai's

able.

to us

us in

ed us

er to

Al.

t, in

took

to be

Foot

n to

able

d to

ome

s of

250

ob-

P2-

d is

du-

mia,

and

here

ons,

nce,

tle;

cept

eed,

ven

reas

110

hat

ere

'In his Lordship's Answer to the second Question he is pleased to aver, ' That, from the Time the Earl of Galway came first into Spain as far as Almaras, and thence returned back to Portugal, the Earl of Peterborough had no Advices from the Earl of Galway, no Account of the Motives of that Retreat, or any Hopes given him of the Return of the Portuguefe into Spain.' What his Lordship says upon this Occasion is very true, for whilft he was at fo great a Distance, besieged in Barcelona, and the Duke of Berwick, with a confiderable Body of Horse, between him und us, it was to no Purpose to think of fending Dispatches by Land; neither was it necessary to inform the Enemy that way, that the Portuguese were resolved (notwithstanding the repeated Instances of the foreign Generals to the contrary) to return back again to their own Country, after their Army had advanced as far as the Bridge of Aimaras. But when we got to Madrid, I immediately fent fo many Expresses with Letters, both to the Earl of Peterborough, and the King of Spain, that it was morally impossible his Lordship could have been ignorant, above eight Days, of our Arrival there: And I have fince been affured, by the Inhabitants of Barcelona, that they were all informed of it by that Time; from whence I must conclude, that his Lordship's Delays in joining us were voluntary, and not occasioned by want of Intelligence. I have afferted in the Narrative, which I delivered into this most honourable House, that I do verily believe, if the Portuguese Army had been joined in Time after their Arrival at Madrid, by the Forces with the King of Spain, and under the Command of the Earl of Peterborough, we might have been able to have driven the Duke of Anjou out of Spain, and have put an End to an expensive War; nor was this my Opinion only, but that of all the World, at that Time. And I find his Lordship thinks it so far imports him, to be clear of this Imputation, that he is resolved to be rid of it at any rate. for, certainly, nothing less than an Apprehension of this nature could have made him aver a Fact fo improbable as that, where, in his farther Answer to the same Question, he fays, - ' That he received no Letter, no Message from the Earl of Galway, - after his fecond Entrance into Spain; nor had the least Notice of his Situation, Circumfrances or Designs, till he saw his Troops retreating from the Enemy, to take the strong Camp of Guadalaxara · Now Anno 9 Annæ,

Now what could be the Design of his Lordship's marching to Guadalaxara, with so small a Body of Troops as is mention'd in my Narrative, unless he knew he was to meet us there? Besides, his Lordship forgets that he came not so Guadalaxara till some Days after the Portuguese had been actually encamped there, as I can make appear by the Oath of several Officers; and consequently, it was impossible for

him to have feen us retreating thither.

Peat, that when his Lordship did join us, he brought no more English Troops with him, than one Regiment of Dragoom and a Detachment of another, though he had actually at that time under his Command in Spain, thirteen English Battle ons, and four Regiments of Dragoons; as likewise, that the Officer, who (his Lordship says) passed through his Quarters, with Letters from the King of Spain, and none for him, was never designed to have gone within several Leagues of his Lordship, unless he had been obliged to it by a Party of the Enemy, as I have already explained more at large in my Narrative; and I cannot help observing. 'tis very improbable that Officer could have Occasion to app'y to the Earl's Secretary for Money, because I gave him an hundred Pittoles at

the Time I dispatched him.

In his Lordship's Answer to the third Question, heir pleased to say, -- 'That the Earl of Galway continued sbout forty Days at Madrid, without making any Endeavour to augment his Troops, or provide any Magazines for the Subfillance of his Army; that meeting the Enemy unexpertedly, and retreating to the Camp of Guadalaxara, the Troops were without Provisions, and in the greatest Disorder.' is reply to this Paragraph, I do affirm, that the Portuguese flaid no longer time at Madrid, than was necessary to get the King proclaimed there, which did not exceed ten Days; then advanced as far as Guadalaxara, about fixty Miles beyond Madrid, where we obliged part of the Duke of Anjou's Troops to repass the River; but were not willing to engage them, at a time, when he had Reason to expect we should have been joined in a few Days, by the Forces with the King of Spain, and Earl of Peterborough, which was the only fecure Method left us to augment our Troops; for it would have been very imprudent to have attempted to form Corps of the Castilians, who were entirely devoted to the Duke of Anjour's Interest. But all the Officers of the Army know, we were to far from wanting Provisions ourselves, that we sent a Convoy of 8000 Loaves to meet the King and the Earl of Peterbirough, which by their Delay in not advancing fast enough grew mouldy; and was afterwards pillaged by the Peafants.

His Lordship's Information of our Want of Intelligence of Anno of Anne, the Enemy's Motions, and of our Disorder upon the Retreat, are as great Mistakes as the former; for the Occasion of our advancing to Guadalaxara was purely to post ourselves in such a Manner, as to prevent the Enemy from marching or sending Detachments to intercept the King of Spain; and when we had Reason to believe him out of Danger, we returned to Guadalaxara, there to be joined by the King and Earl of Peterborough; nor was it possible for his Lordship to have seen our Disorder had there been any, because, as I have already observed, he came not to Guadalaxara himself, till some Days after we had been encamped there.

'Notwithstanding the Earl of Peterborough is pleased to say, — 'That we lost 5000 Men in the Retreat to Valentia, without a Blow, and entirely ruined our whole Cavalry.' Tis certain, our Loss upon that Occasion, was not very considerable, if any, and the Retreat made in so good Order, that the Enemy (superior as they were in Number) never durst venture to attack us, after the warm Reception twenty two of their Squadrons met with from two Batallions under the Command of Colonel Wade, in the Town of Villa-Nova, notwithstanding we were obliged to cross Plains and Rivers

in their View.

narch.

as is

meet

ot to

been

Oath

le for

to re.

more

200m

that

talli.

et the

Quar-

him,

les of

ty of

my

pable

ecre.

es at

he is

da.

ours

the

pec-

0005

Ín

faid

ing

Ma-

ops

em,

ave

g of

ure

ave

the

ou's

fo

OY

th)

185.

' And though his Lordship avers in his Answer to this Question, ___ 'That this Retreat was made against the King's Opinion, and that of all his Officers and Ministers.' It is certain, the Retreat was concerted and agreed upon in a Council of War: 'Tis true, some Persons about the King feemed, at first, inclinable to have taken Quarters in Castile, but that was foon after found impracticable; for none of those Spaniards, who were best acquainted with the Country, could make a Disposition of Quarters, where the Troops could be fecure; and therefore it was resolved immediately to cross the Tagus, before the approaching Rains should have rendered the Fords impracticable; which being done, our next Defign was to have lodged ourselves behind the River Xucar: But neither could this be done, without taking a small Town with a Castle upon that River, that commanded a Bridge, where the Enemy had a Garrison; and therefore a Disposition was made for attacking this Town; but by the Delay of the King's Generals the Execution of this Matter was for long deferred, that the Enemy had already reinforced their Garrison, and were advanced so near us with a superior Force, that it was not thought adviseable to attempt the Thus the only Resource left us was the Kingdom of Valencia, whither we were absolutely to retreat, that we 1710-11. Xx

Anno 9 Annæ, might preserve our Communication with the Seas, and ca. 1710-II.

ton with Security.

Nor is it to be wondered at, that Count Noyelles, in his Letter to the Earl of Peterborough, should feem diffatisfield with the Measures that were then taken, fince 'tis well known, that General used underhand to ridicule those very Opinion in Councils of War, to which he had given his Affent: For being disappointed of the Command of the Army, which was what he expected at his first Arrival) he feemed resolved that no other General should have an Army to command Tis very notorious, that a Dutch and Spanish Batallion, with a Detachment of English and Portuguese, amounting to above 3000 Men, were fent to Cuenca, and thrown away there later it had been resolved to retreat to Valencia) purely to satisfy his Importunity; for I always forefaw it would be impossible in protect a Garrison at that Distance from our Quarters: But what is still more extraordinary, the fending the Kine's Troops into Arragon with part of the Dutch, who might a therwise have been at the Battle of Almanza, was another fatal Effect of Count Novelles's Advice.

In the Earl of Peterborough's Answer to the fourth Quel tion, he is pleased to fay, - 'That several Councils of War were held in the Month of January at Valencia, about the Time that Intelligence was brought that the Forces under the Earl Rivers were entered into the Mediterranean, in order to adjust the Measures for the ensuing Campaign: That the Matters therein debated were principally, whether the Army should march towards Madrid, or seek the Enemy: In the Debates, the Earl of Peterborough positively assure, that the Earl of Galway, Mr. Stanbope, and the Lord & rawley, supported those Measures, with the Portuguese Gene ral; and that the King, the Count de Noyelles, the Spans Generals and Ministers, with himself, argued strongly against those Measures, as highly dangerous and impracticable; and this in repeated Councils of War, till, at last, the Earl of Peterborough, follicited by the King of Spain to renew the Debate, defired the King that he would order all called to the Council, to bring their Opinions in Writing, that every body's Opinion, and Reasons for that Opinion, might ap pear, and be known to the World; which, according to the King's Commands, were put in Writing, and delivered at the Council.

In Reply to this Affertion, I would beg Leave to appeal to your Lordships Memories, whether upon the first mention of these Resolutions in this most honourable House, the Earl did not as positively affirm, ' That the conclusive Council for the Operations of the ensuing Campaign was held on

the 15th of January, and whether he did not offer to depose Anno 9 Annas on Oath, that in that very Council, no Person whatever was of Opinion for making an Offentive War, and against dividing the Troops, but the Lord Tyrawley, Mr. Stanhope, and I?' Soon after, indeed, upon farther Recollection, he was pleafed nadd the Marquis das Minas to our Number; and, I observe, he has fince given himself a much larger Latitude, both as to he Time of holding that Council, and as to the Perfons who voted for an Offenfive War. His Lordship is now so far from confining himself to a Day, that he takes in the whole Month, and, by accusing us more modestly, for having opposed only the King, Count Noyelles, himself, and the Spanish Generals and Ministers, leaves half the Council on our Side ; for supposing all the Spanish Generals and Ministers to have fifted at that Council, there could only have been twelve Persons there, wiz. Prince Lichtenstein, Count Oropeza, Count Corfana, Count Cardona, Count Novelles, my Lord Peterberough, the Marquis das Minas, Count d' Affumar, my Lord Tyrawley, Mr. Stanbope, Monfieur Freishman, and I. aft fix his Lordship has plainly left on our Side; but my Lord Tyranuley positively affirms, Count Orepeza was of the ame Opinion, and believes Count Corfana was fo too. Thus, taking the Matter as the Earl of Peterborough is pleased to fate it, we had an Equality; and, as my Lord Tyrawley remembers, the greater Number of our Party.

Perhaps when my Lord Peterborough contends fo posiively to prove that Council of the 15th of January concluive, he was led into that Error, by the Mistake in my Lord Sunderland's Letter, in an Answer to one of Mr. Stanhope's of January the 15th; but he has since been pleased to allow, that the Council of the 15th was not conclusive, and that many more subsequent Councils were held, which determined the Operations of the ensuing Campaign, wherein he voted himself for marching to Madrid, by the Way of Arragon, which, I should have imagined, had lest no farther room to mention our Opinions of the 25th; but because he is still resolved to make good his Charge against my Lord Tyrawley, Mr. Stanhope, and me, he affirms to your Lordships, ' That the Occasion of that Change in the subsequent Council was, because the Opinion of the Majority had been over ruled by a Minister of her Majesty, assuring, that the Queen had given him Orders to declare in her Name, that her positive Orders were, that they should seek the Enemy, march to Madrid, and not divide the Troops, upon any Account

whatfoever.'

nd can-

in his latisfied

chown,

: For,

folved,

n, with

above

e (after isfy his

fible to

s: But

King's

ght onother

Quel. War

out the

under

in or-

That

er the

emy:

fures,

rd Ty

Gene-

panifb gaint

; and

rl of

v the

ed to

very

ap-

g to

ered

peal

1001

Earl

ıncil

00

the

"I must confess, I do not conceive that it imports me much to reply to this Part of the Earl's Answer, nor shall I Xx2 attempt 1710-11.

Anno , Anna, attempt to make a Defence for an absent Man; for if M. Stanbope was here, I doubt not but he would be able fuffici ently to justify his own Conduct in this Affair : Yet I canno help faying, that even Malice itself has never yet suggested that my Lord Tyrawley, Mr. Stanhope, and I, did not ad, or that Occasion, with great Integrity, according to the bell of our Understandings; nor (with great Submission to this me honourable House) shall I ever be ashamed to own an Oni nion, which was then, not only the common Sense of the Army, but agreeable to the Defires and Interest of the whole Kingdom of England. In the Earl of Peterborough's farther Question, he is pleased to say, - That, notwithstanding this, the Earl of Galway brought the Army into the Plain of Valencia, the direct contrary Route to that of Arraya, and into all those Dangers which he was to avoid, by march ing by the Head of the Tagus.' In Reply to this Answer, ! shall only observe, that I had not the Command of that Army (which confifted of three separate Bodies, English, Portuguese and Dutch) but the Marquis das Minas, from whom I always received Orders; and the Battle of Almana was fought by the unanimous Approbation of a Councilo War; nor could the Resolutions of that Council have ever been executed, had there been the least Difference in Opi nion, because each Commander of a separate Corps might have refused to march.

' For the Occasion of our moving towards Almanza, I must beg Leave to refer to my Narrative, where I have mentioned more at large, that, in order to execute the Reloutions of those Councils of War, where it was agreed, we should march to Madrid by the Way of Arragon, but first to destroy the Enemy's Magazines on the Frontiers of Valentia, I went with the Marquis das Minas, in the beginning of April, to Yecla, where the Enemy's chief Magazines lay, and from thence to Villena, where we had Advice of their Troop being affembled at Almanza, upon which that Council was held, wherein the Battle was unanimously resolved on. The Earl of Peterborough is pleased to add a Reason for his Opnion, - ' That the Duke of Savoy and Prince Eugene had declared their Sentiments for a Defensive War at that Time in Spain, and had communicated their Thoughts to Charles III upon that Subject, to the certain Knowledge of the Earl of Peterborough, as he can make appear by authento

Papers from the King of Spain.'

I shall not take upon me to deny a Matter of Fact, which his Lordship so positively affirms, but I have been credibly in formed that the Duke of Marlborough and my Lord Godolphin, did both of them affure this most honourable House, that the true Project against Thoulan was not concerted by the Earl of Anno 9 Anna. Peterborough, Prince Eugene, and the Duke of Savoy; but first fet on foot by the Duke of Marlborough with Count Maffey in Flanders, and finished in England, with the Counts Maffey and Briancon; but did not require that any Troops should be fent from Spain, nor was ever communicated to the Earl of Peterborough; which, indeed, his Lordship seems to be aware of, when he fays, not long after, that the Project against Thoulon, as fettled by him, had been fo altered, that the Dake of Savoy publicly declared his Dislike of engaging in it. - And yet it is most certain, that his Royal Highness did engage in an Attempt against Thoulon, pursuant to the Project concerted in England; and though that Attempt did not prove entirely successful, it had a very good Effect, for thereby a great Body of the Enemy's Troops were diverted from acting elsewhere; and a confiderable Damage was done to the Fleet and Magazines of France.

What his Lordship says, concerning a Project that was formed for the taking of Origuela before the opening of the Campaign, is very true; but that Project being afterwards found impracticable, for want of Provisions, and the Campaign drawing near, the Earl Rivers's Troops, which had been quartered, after their landing at Alicant, in the nearest and most commodious Towns for their Reception, were ordered to remove to the Ova de Castalla, two short Days March from the Places where they lay before, that the Enemy might not get between them and the rest of our Quarters, to surprize

f Mr.

fuffici.

canno

gefled,

ct, or

beft of

s mot Opi.

of the whole

arther

nding

Plain

agon,

narch. ver, [

f that

nglift,

from anza

cil of ever

Opi.

night

ea, I

have

folu-, We

rft to

ncia,

ng of

and

00ps

Was

The

Opi-

had

ime

arles

the

entic

hich

y in-

hin,

the

true

'In the Earl's Answer to the fifth Question, he says,-The King of Spain, when the Troops were marching into Murcia towards the Enemy, affembled a Council of War to no other Purpose, but to send by the Hands of his Secretary of State a Protest, with his Reasons why he would not march with the Army, but to go to protect his Subjects in Catalonia; the Contents of which Protest the Earl very well remembers, having had a Copy of it by the King's Order.' His Lordship's Memory, as positive as he is, must have failed him extremely in this Matter, for the Army never did march into Murcia, nor any Part of it, except a Detachment of the Troops under his Lordship's Command, which returned from thence with very ill Success; and whatever he may aver to have been the Reason of the King of Spain's leaving the Army, and going to Catalonia, 'tis certain, his Journey thither was fixed long before the Army affembled, for no other Reason, that I ever yet heard of, but because he had a mind to redress some Disorders there; and his Majesty always promised to be back again by the Time our Army should

1710-11,

Anno 9 Annæ, be ready to take the Field: And it is notoriously known, that the Reasons for that Journey were thought so insufficient that not only all the Foreign Generals and Ministers, but even the City and Kingdom of Valencia, by their Deputies,

protested against it.

As to what the Earl of Peterborough is pleased to fay, concerning those Instruments which he has to produce, as Proof of the King of Spain's having been over-ruled, on many Oc. cafions, in what he proposed for the Public Service-Ica only reply, that I do not remember to have feen any of those Proofs, except a Letter of the King of Spain to his Lordflip, where his Majesty observes, that the English, Portuguese and Dutch Generals had refused him Men to send to Majorca, in Councils of War held on the 17th and 19th of January; from whence, I hope, I may reasonably infer, the great Probability of those Generals having been of Opinion, but two Days before, against dividing the Troops: And I must say, my Behaviour to the King of Spain, whilft I had the Honour to serve under him, was such, that he never had Occafion to complain against me, by his Ministers to the Queen, as he did most strenuously, by the Count de Gallas, against the Earl of Peterborough.

*GALWAY!

It was generally believed that the Lords would have been contented, with having passed a slight occasional Censure

* About the middle of January the Earl of Peterborough's Friends published a Letter from the Duke of Marlborough to his Lordship, which was lodged in the House of Lords, with several other Papers, upon the forementioned Examinations, made by that illustrious Assembly, of his Lordship's Conduct in Spain; which Letter was as follows:

'Tho' we have no direct Account of your Lordship's Progress, fine the Relief of Barcelona, yet the Advices from feveral other Parts, a well as the Enemy's Frontiers, agree so well, and we are naturally so in-clined to believe readily what we wish, that, I perswade myself, there no Reason to doubt of your having some time since brought the Kingto Madrid. As this good News has been indulged here with the greates Satisfaction, I do, with no less Pleasure, take this fresh Opportunity of congratulating your Lordship on the glorious Occasion; which is by Hands chiefly attributed to your Valour and good Conduct. The whole Confederacy is full of Joy for the Advantages this wonderful Success will produce to the Public; and I affure you, I am no less so, for the Addition it has made to your Lordship's Glory, in which no Man alive take more Part than I do. After fuch furprizing Events, there is nothing that we may not expect from you; therefore I hope your Lordship will not think us unreasonable in our Hopes, that we shall soon hear of the entire Reduction of Spain to the Obedience of their lawful Sovereign, for which you seemed designed by Providence to be the happy Instrument; and I heartily wish you all manner of Success in the accomplishing this great Work.

n, that

ficient,

s, but

puties,

, con-

Proof

-I can

thole

dfhip,

e and

ca, in

uary;

Pro-

t two

fay,

Ho-

occa.

ieen,

ainst

Y.'

been

fure

On

riends

vhich

n the

f his

fince

5, 4

inası ng to

ty of y all hole

will

Adkes

that

not '

en-

for

his

We

on the Earl of Galway; which feemed the more probable, Anno 9 Annes hecause the most considerable Peers, of both Parties, had fooken very honourably of him in the foremention'd Debates: But on Friday the 17th of January, he was fummoned to attend their Lordships the Monday following. My Lord Galway being then indispos'd with a Rheumatism and the Gout, and therefore unable to obey that Order; the Lords fent him a Question in Writing, viz. Why, whilst he Question put to commanded the British Forces in Spain, he gave the Right Lord Galway, to the Portuguese? To this the Earl of Galway sent an An- why he gave fwer, importing, ' That by the Treaty with Portugal, the the Right to Troops of that Crown were to have the Right in their own in Spain. Country; and that in order to engage them to march to Madrid, he was obliged to allow them the same Honour; for otherwise, they would never have stirr'd out of Portugal. Tho' this Reason seem'd very plausible; and, it is certain, that if the Portuguese had not march'd into Castile, upon my Lord Galway's refusing to give them the Right in Spain, his Lordship would certainly have been generally reflected on, for long the vast Benefit that was reasonably expected from the Conjunction of the Portuguese, with King Charles's Forces, on a Punctilio of military Honour; yet, (perhaps, lest such a Condescension should be drawn into a Precedent) the Lords thought fit to resolve, by a Majority of 64 Voices against 44, Which is voted That the Earl of Galway, in yielding the Post of her Ma-dishonourable jefty's Troops to the Portuguese in Spain, acted contrary to to the British the Honour of the Imperial Crown of Great Britain.

A Week after, (being the last Day of January) the Lords The Lords enresum'd the Consideration of the State of the Nation, in re-quire into the lation to the Affairs of Spain; and debated, why there were Number of but about 13700 effective Men at the Battle of Almanza, in Spain, at when the Parliament had provided for about 29000: After the time of the which, their Lordships appointed a Committee to enquire Battle of Alinto that Matter. It is observable, that in this Debate, no manza.

effective Men

We have reduced + Oftend, and are now making all poffible Diligence in the necessary Preparations for the Siege of I Menin, and hope, with the Bleffing of God, we shall not end our Campaign there. I am, with Truth and Respect,

My Lord,

Your Lordship's

Faithful and humble Servant,

MARLBOROUGH.

Note, That Oftend was furrender'd on the 6th of July, 1706: That Menin was invested on the 22d of that Month: That about the middle of August the Earl of Peterborough was sent away from the Camp towards Genoa, to follicit Money for King Charles; and that thereupon the Earl of Galway had the sole Command of the united English Army conferr'd

Anno 9 Anna, manner of Fault was found with my Lord Galway; and 1710-11. that the whole Blame was laid on the late Ministry.

February the 3d, Upon Report from the Committee of the whole House appointed to take into further Confideration the present State of the War in Spain, that they had come to this Resolution, viz.

Vote concerning two Regiments on the Spanish Establishment.

And Protest thereon,

(That the two Regiments upon the Spanish Establishment, twice demanded, and provided for by Parliament, were not supplied as they ought to have been.)

And the same being read, the Question was put, Whether

to agree with the Committee in this Resolution?

It was resolved in the Affirmative. Contents 62; Not contents 46.

Diffentient'

Because the Estimates in which the two Regiments of Hill and Hotham were twice demanded, were agreed to by Parlia. ment for the Service of Portugal, as well as of Spain; and that Mistake could not, in our Opinion, have been more effectually or sooner supplied than from Ireland, and in the manner they were; for it appears to us, the faid Estimates were not agreed till the 11th of January, 1706-7.

That the necessary Order for transporting four other Regiments from Ireland to Portugal were iffued on the 8th of February next following; and that the Money provided for the faid two Regiments, twice reckoned, was applied to the Payment of the faid four Regiments from the Time of their

Embarkation.

Devonshire, Ashburnham, Jo. Ely, Jo. Landaff, Godolphia, T. Wharton, Sunderland, Ric. Petriburg', Herbert, Scaborough, Rochester, J. Bridgwater, Kent, Jon. Winton, Jo. Bangor, W. Lincoln, Rockingham, Lincoln, J. Litto and Cov', Stamford, Pelham, Bolton, Westmoreland, Sommers, Hallifax, Gi. Sarum, W. Carliol', Cholmondeld, Haversham, Hervey, C. Norwieh, Orford, Cornwallin, Bedford, Carlifle, Cowper.

Then another Resolution of the said Committee being read, vir.

(That by not supplying the Deficiencies of the Men give Vote concerning the Deficiencies by Parliament for the War in Spain, the Ministers have greatly neglected that Service, which was of the greatest Imof Men on the faid Establishportance.) ment.

The Question was put, Whether to agree with the Com-

mittee in the faid Refolution? It was resolved in the Affirmative.

Diffentient'

And Protest

thereon.

Because the Resolutions on the former Particular is not,

he we conceive, a sufficient Ground for this general Vote; Anno 9 Anna; and the Committee of the whole House having declined to give any Opinion on the other Particulars, we think it unreafonable to proceed to a Cenfure on the Ministers for not supplying the Deficiency, without first resolving on the several Particulars, how far that Deficiency might be justly imputed to them.

And we are of Opinion, that all the Money given by Parliament, for the Service of Spain and Portugal, has been

timely and punctually iffued for that Service.

The rest of this Protestation was expunged by Order of

the 9th Instant, and is not legible.

and

fthe

ation

come

nent,

not

ether

Not

Hill

rlia.

more

n the

mates

Regi-

th of

d for

o the

their

lobin,

Scar-

nton', Litch

Som

delej,

allis,

being

given

have

A Im-

Com-

s not,

Will. Carliol', Jo. Lan-Cornwallis, Jonat. Winton', daff, Ashburnham, Herbert, Bolton, Lincoln, Rockingham, T. Wharton, Bedford, J. Bridgewater, Jo. Bangor, Dewonshire, Ric. Petriburg', W Asaph, Godolphin, Stamford, Haversham, Dorchester, Scarborough, J. Litch' and Cov', Pelham, West moreland, Gi. Sarum, Kent, W. Lincoln, Somers, Cholmondeley, Orford, Cowper, Carlifle, Hallifax, Hervey, C. Norwich, Sunderland, J. Ely.

In confequence of what before passed in the House, relating to the Affairs of Spain, the following humble Representation of the Right Honourable the Lords spiritual and temporal was presented to her Majesty, on Saturday the 10th Day of February, 1710.

JE, your Majesty's most dutiful and loyal Subjects, Lords Representhe Lords spiritual and temporal in Parliament af- tation with refembled, do, with all Humility and Thankfulnels, acknow- gard to the Afledge your great Goodness and Condescention, in ordering fairs of Spain, to be laid before us many Letters and Papers relating to the War in Spain, by which, and by the Examination of divers Persons, and by the Assistance of the Earl of Peterborough, who, by your Majesty's Permission, informed us, with great Exactness, of many Particulars, and gave us a very faithful, just and honourable Account of the Councils of War held in Valencia, we have been enabled to discover some of those many Miscarriages which have disappointed the Hopes your Majesty, and all Europe, justly conceived from the Resolutions of your Parliaments; and had they been pursued with as much Care by those whom your Majefty entrusted, as they were taken with Zeal and good Affection, the Success, by the Blessing of God, might have ' answered those Expectations.

When we consider how generously your Majesty engaged in this War for afferting the Liberties of Europe, and the Rights of the House of Austria to the Spanish Monarchy, 1710-11. which

Anno 9 Anna, manner of Fault was found with my Lord Galway; and 1710-11. that the whole Blame was laid on the late Ministry.

February the 3d, Upon Report from the Committee of the whole House appointed to take into further Confideration the present State of the War in Spain, that they had come to this Resolution, viz.

Vote concerning two Regiments on the Spanish Establishment. And Protest

thereon.

(That the two Regiments upon the Spanish Establishment, twice demanded, and provided for by Parliament, were not supplied as they ought to have been.)

And the same being read, the Question was put, Whether

to agree with the Committee in this Resolution? It was resolved in the Affirmative. Contents 62; Not

contents 46.

Diffentient'

Because the Estimates in which the two Regiments of Hill and Hotham were twice demanded, were agreed to by Parlia. ment for the Service of Portugal, as well as of Spain; and that Mistake could not, in our Opinion, have been more effectually or fooner supplied than from Ireland, and in the manner they were; for it appears to us, the faid Estimates were not agreed till the 11th of January, 1706-7.

That the necessary Order for transporting four other Regiments from Ireland to Portugal were issued on the 8th of February next following; and that the Money provided for the faid two Regiments, twice reckoned, was applied to the Payment of the faid four Regiments from the Time of their

Embarkation.

Devonshire, Ashburnham, Jo Ely, Jo Landaff, Godolphia, T. Wharton, Sunderland, Ric. Petriburg', Herbert, Scarborough, Rochester, J. Bridgwater, Kent, Jon. Winten, Jo. Bangor, W. Lincoln, Rockingham, Lincoln, J. Litto and Cov', Stamford, Pelham, Bolton, West moreland, Sommers, Haltifax, Gi. Sarum, W. Carliol', Cholmondeld, Haversham, Hervey, C. Norwieh, Orford, Cornwallin, Bedford, Carlifle, Cowper.

Then another Resolution of the said Committee being read, viz.

Vote concerning faid Establishment.

> And Protest thereon.

(That by not supplying the Deficiencies of the Men given the Deficiencies by Parliament for the War in Spain, the Ministers have of Men on the greatly neglected that Service, which was of the greatest laportance.)

The Question was put, Whether to agree with the Committee in the faid Resolution?

It was resolved in the Affirmative.

Diffentient'

Because the Resolutions on the former Particular is not,

as we conceive, a fufficient Ground for this general Vote; Anno 9 Anna, and the Committee of the whole House having declined to give any Opinion on the other Particulars, we think it unreafonable to proceed to a Cenfure on the Ministers for not fup. plying the Deficiency, without first resolving on the several Particulars, how far that Deficiency might be justly imputed to them.

And we are of Opinion, that all the Money given by Parliament, for the Service of Spain and Portugal, has been

timely and punctually iffued for that Service.

and

the

tion

ome

ent.

not

ther

Not

Hill

rlia.

and

nore

the

ates

egi-

h of

the

beir

bin,

cat-

ton'. itch

Som-

delet,

allis,

eing

IVER

have

Im-

Com-

not,

The rest of this Protestation was expunged by Order of the 9th Instant, and is not legible.

Will. Carliol', Jo. Lan-Cornwallis, Jonat. Winton', daff, Ashburnham, Herbert, Bolton, Lincoln, Rockingham, T. Wharton, Bedford, J. Bridgewater, Jo. Bangor, Devonshire, Ric. Petriburg', W Asaph, Godolphin, Stamford, Haversham, Dorchester, Scarborough, J. Litch' and Cov', Pelham, Westmoreland, Gi. Sarum, Kent, W. Lincoln, Somers, Cholmondeley, Orford, Cowper, Carlifle, Hallifax, Herwey, C. Norwich, Sunderland, J. Ely.

In consequence of what before passed in the House, relating to the Affairs of Spain, the following humble Representation of the Right Honourable the Lords spiritual and temporal was presented to her Majesty, on Saturday the 10th Day of February, 1710.

I E, your Majesty's most dutiful and loyal Subjects, Lords Representhe Lords spiritual and temporal in Parliament af- tation with refembled, do, with all Humility and Thankfulness, acknow- gard to the Afledge your great Goodness and Condescension, in ordering fairs of Spain, to be laid before us many Letters and Papers relating to the War in Spain, by which, and by the Examination of divers Persons, and by the Assistance of the Earl of Peterborough, who, by your Majesty's Permission, informed us, with great Exactness, of many Particulars, and gave us a very faithful, just and honourable Account of the Councils of War held in Valencia, we have been enabled to discover some of those many Miscarriages which have disappointed the Hopes your Majesty, and all Europe, justly conceived from the Resolutions of your Parliaments; and had they been pursued with as much Care by those whom your Majesty entrusted, as they were taken with Zeal and good Affection, the Success, by the Bleffing of God, might have answered those Expectations.

When we consider how generously your Majesty engaged in this War for afferting the Liberties of Europe, and the Rights of the House of Austria to the Spanish Monarchy, 1710-11. which

Anno 9 Annæ, 1710-11.

which had been wrested from them by the Artifices and Usurpations of the French King, when a Prince of that illustrious Family came to your Majesty for Refuge against Oppression, and that your Majesty had received him into your Protection, moved thereunto not only by your own innate Goodness, but by the Voice of your People to. who were ready to facrifice their Lives and Treasure for the Support of your Majesty in the Defence of fo righteon a Cause; and when we further consider what would have been the happy Fruits of a successful War in Spain, the ' Honour of your Majesty, the Safety, Wealth, and Prospe rity of your own Dominions, and the lafting Peace of Europe; we are aftonished to find, that any employed by your Majesty should contribute to the Disappointment of of o glorious a Design, or so much as neglect to promote it. We were extremely surprized to find, by all the Ac. counts now before us, that of the 29,395 Men given by · Parliament for the Service of the War in Spain, there should be present in Spain, at the Time of the Battle of Almanza, only 13,759.

'However the Earl of Galway, who commanded you Majesty's Troops at that Time in Spain, may have deserved to be censured in other Respects, we cannot charge him

· with

The Deficiency of 1710 Men, twice reckoned in the Regiments of Hotham and Hill:

Nor of 876 Men of Lord Barrimore's Regiment, reduced by the Earl of Peterborough, and was then ming

in England:

Nor of 1833 Men, allowed for Servants of the Officen belonging to the Regiments actually in Spain, and not reduced at the Time of the Battle:

Nor of 151 of the Widows Men for all the Regiment.

' in Spain at that time:

Nor of 3741 Men of the Regiments of Farrington, Hamilton, Mohun, Brudenel, Allen, and Toby Caulfield, that were reduced some Time before the Battle:

Nor of the 622 non-commission'd Officers and private Men of Bloffet's Regiment, that were reduced by the Barl

Rivers, and incorporated into Sybourg's.

For, whatever Defects there have been, these are most of them justly to be imputed to those who had the Management of your Majesty's Affairs here, whose Duty it was to give the necessary Orders, and to require the dust Execution of them, for a Service which the Nation had so much at Heart, as there covering Spain out of the Hands of the French.

· And

And therefore, whatever the Reafons may have been Anne of Anne, for reckoning the Regiments of Hotham and Hill twice in the Estimate presented to the House of Commons; yet, fince the Number of Men demanded for the Year's Service was readily agreed to by them, we could not but be of Opinion, That the two Regiments upon the Spanish Establishment, twice demanded, and provided for by Parliament, were not supply'd as they ought to have been.

And, upon Consideration of the other Desiciencies, we

have found Reason to resolve,

That by not supplying the Desiciencies of the Men, given by Parliament for the War in Spain, the Ministers have greatly neglected that Service, which was of the

greatest Importance.

gains

into

TWO T

too,

re for

ateous

have

e, the

rospe-

ce of

ed by

nt of

te it.

Ac-

n by

there

le of

your

rved

the

fing

cera

110-

ents

arl

tor

it

And yet, Negligence, and the Profusion of vast Sums of Money given by Parliament, are not the only Faults we have to lay before your Majesty: We beg Leave to add that unaccountable Advice at Valencia, for an Offensive War at that time in Spain, and approved of here, not withstanding it is well-known how sew Troops we had in Spain, even with the Addition of those sent with the Earl Rivers, and the state Battle of Almanza that ensued, the Steps that led to it, and the sad Consequences that attend-

ed it, under which we still labour.

The Earl of Galway, Lord Tyrawley, and General Stanhope, infifting in a Conference held at Valencia some time
in Jannary, 1706-7, in the Presence of the King of Spain,
and your Majesty's Name being used in Maintenance of
their Opinion, for an Offensive War, contrary to the King
of Spain's Opinion, and that of all the general Officers and
public Ministers there (except the Marquis Das Minas)
and that Opinion of the Earl of Galway, Lord Tyrawley,
and General Stanhope, being pursued in the Operations of
the following Campaign, was the unhappy Occasion of
the Battle of Almanza, and one great Cause of our Misfortunes in Spain, and of the Disappointment of the Duke
of Savoy's Expedition before Thoulon, concerted with your
Majesty.

And it appears by the Earl of Sunderland's Letters, That the carrying on the War Offensively in Spain was approved and directed by the Ministers, notwithstanding the Design of attempting Thoulon, which the Ministers at that time knew was concerted with the Duke of Savoy; and therefore are justly to be blamed for contributing to all our Missortunes in Spain, and to the Disappointment of the

Expedition against Thoulon.

Before we conclude this humble Address to your Ma-Y y 2 'jesty, 1711.

Anno roAnna, ' jesty, we think ourselves obliged to acquaint your Majeh, That as the Earl of Galway has, in yielding the Poll of your Majesty's Troops to the Portuguese in Spain, alled contrary to the Honour of the Imperial Crown of Great Britain, so we find the Earl of Peterborough, during the time he had the Honour of commanding the Army in Spain, did perform many great and eminent Services, and if the Opinion he gave in the Council of War at Valencia had been followed, it might, very probably, have prevented the Misfortunes that have fince happened in Spain.

Having laid before your Majesty this faithful Represen-

rea

m

H

th

ce

B

ți I

tation of the Mismanagements of those Persons entrusted with your most important Affairs, and to whose Council and Conduct the fatal Miscarriages of the War in Spain are, in great measure, to be imputed, we have an entire " Confidence, that your Majesty will give such Orders and take such Measures, with regard to our present Cir. cumstances, as may retrieve the bad Effects of that unhappy Management to the Advantage of the common Caule, and to the obtaining a fafe and honourable Peace.'

The 13th, a joint * Address of both Houses was presented to her Majesty, on Occasion of Mr. Harley's being wounded by Guiscard; which see in CHANDLER's Hist. Anno 9 Anna, 1710, Page 194.

Death of the

April the 20th, The Queen communicated the Death of Emperor Joseph. the Emperor Joseph, by a Message, to both Houses; and that the had agreed with the States, toule all her Interest, for the electing of King Charles in his Stead.

Mr. Harley made Earl of Oxford, and Lord Treaturer.

May the 24th, It was her Majesty Pleasure to create Mr. Harley, Earl of Oxford.

The 25th, He took his Place in the House of Peers. The 29th, He was honoured with the Treasurer's Staff. And June the 1st, He took the usual Oaths in the Cour of Exchequer; on which Occasion the Lord Keeper address himself to his Lordship in the following Speech:

My Lord OXFORD,

Lord Keeper's Speech to him.

The Queen, who does every thing with the greated Wisdom, has given a Proof of it in the Honours the has lately conferred on you; which are exactly fuited to you Deferts and Qualifications.

· My Lord, the Title, which you now bear, could not have been fo justily placed on any other of her Majesty's Subjects!

It was reported, about this Time, that all the Lords, in the laterest of the late Ministry, except one, left the House, when this Adi drefs was moved for.

Subjects. Some of that ancient Blood, which fills your Veins, Anno 10 Anna, s derived from the Veres: And you have shewed yourself as ready to facrifice it for the Safety of your Prince, and the Good of your Country and as fearless of Danger, on the most trying Occasions, as ever any of that brave and loyal House were.

elty,

A of

acted

real

the pain,

had

nted

efen-

afted

ncile

pain

ntire

lers

Cir-

PPP tufe,

nted

nded

ine, h of

that

the

Mr.

aff.

ourt fs'd

teft

has

out

not

ty's as!

'Nor is that Title less suited to you, as it carries in it a Relation to one of the chief Seats of Learning: For even your Enemies, my Lord, (if any fuch there still are) must own, the Love of Letters, and the Encouragement of those who excel in them, is one distinguishing Part of your Character.

' My Lord, The high Station of Lord Treasurer of Great-Britain, to which her Majesty has called you, is the just Reward of your eminent Services. You have been the great Instrument of restoring Public Credit, and relieving this Nation from the heavy Pressure and Ignominy of an immense Debt, under which it languished; and you are now entrusted with the Power of securing us from a Relapse into the same State out of which you have rescued us.

'This great Office, my Lord, is every way worthy of Particularly on the Account of those many Difficulties with which the faithful Discharge of it must be unavoidably attended, and which require a Genius, like yours, to master them. The only Difficulty, which even you, my Lord, may find almost insuperable, is, how to deserve better of the Crown, and Kingdom, after this Advancement, than you did before it."

June the 12th, The Queen came to the House of Peers, and put an End to the Session with a Speech to both Houses, which fee in CHANDLER's History, Anno 10 Anna, 1711, Page 225.

Notwithstanding the Removes at Home, the Duke of Operations of Marlborough having been made easy in his Command Abroad, the Campaign, took the Field as usual; and passed the French Lines at Arleux and Bac-a-Bacheul without Opposition, August 5, N. S. After which he invested Bouchain, and in the midst of Difficulties, believed to be almost inseparable, obliged the Garrison to surrender at discretion, in fight of the French Army, who durst not venture to make any Motion for their Re-But in the mean while Mr. Mesnager coming over to England with Proposals of Peace, Mareschal Tallard was permitted to go Home on his Parole for four Months, and Congress ap-Utrecht was appointed for a Place of Congress; which was pointed at to be opened Jan. 1, O. S.

Anno to Anne. 1711.

The SECOND SESSION of the Third Parlie. ment of GREAT BRITAIN

AS opened by her Majesty, December the 7th, with a Speech to both Houses, which see in CHANDLER History, Anno 10 Annæ, 1711, Page 227.

As foon as her Majesty had ended her Speech she retired to her Dreffing-Room, and having pull'd off her Royal Robe, came back into the House of Peers incog. both to hea, and, by her Presence, to moderate the Heats of the Debate,

Debate about Nottingham.

The Queen fays in the House incog.

A Motion for an Address of Thanks for her Majelly a Clause offer'd Speech having been made, the Earl of Nottingham property the Earl of a Clause to be inserted in the said Address, to represent a Clause to be inserted in the said Address, to represent to he Majesty, as the humble Opinion and Advice of the House that no Peace can be fafe or honourable to Great Britain Europe, if Spain and the West-Indies are to be allotted to any Branch of the House of Bourbon; Which occasioned a ven high Dispute, that lasted till near feven of the Clock; when the previous Question being put, Whether the Question should be put upon the Clause in Debate? It was carried in the Affirmative, by one fingle Vote; and the main Queffion be ing afterwards put, it was also carried in the Affirmative by a Majority of fixty-two Votes to fifty-four. It was by ma expected, that the Court-Lords would, the next Day, has the Majority; and that the Clause beforementioned would be left out, but the Committee appointed to draw up the Aldress having reported the same, a Motion being made, and the Question put, That the Consideration of the said Class might be put off till the absent Peers were come up, it was at ried in the Negative, by a Majority of twenty two Vom. On Tuesday the 11th of December, the House of Lords with ed on the Queen with their Address, which was as follows:

And inferted in the Address.

Lords Address to the Queen.

TTE, your Majesty's most dutiful and loyal Subject the Lords spiritual and temporal in Parliament & ' fembled, do, with Hearts full of Gratitude and Loyaly ' your Sacred Majesty, beg Leave to return your Majesty ou most humble and hearty Thanks and Acknowledgment for your Majesty's most tender and affectionate Concerns

all your People, expressed in your Majesty's most gracion Speech from the Throne; and for imparting to us your Ma e jesty's Desires for ending this present War by a Peaceal vantageous to your Subjects, and just and honourable in

your Majesty and all your Allies; as also for your Ma e jefty's

Where Sir Simon Harcourt, Lord Keeper, now fate as a Baron.

ielty's expressing fo particular a Regard for the Interest of Amo to Anne the States General, as inseparable from your own; and that your Majesty is graciously pleased to assure us, it is your chief Concern, that the Protestant Religion, and the Laws and Liberties of these Nations, may be continued to your People, by fecuring the Succession to the Crown, as it is limited by Parliament, to the House of Hanover; and that your Majesty is pleased to shew so just a Resolution to procure a Satisfaction for all the Allies, being by Treaties entitled to have their several Interests secured at a Peace, and to unite them in the strictest Engagements, in order to render the Peace secure and lasting.

'And we do beg Leave to represent it to your Majesty, as the humble Opinion and Advice of this House, that no Peace can be fafe or honourable to Great Britain, or Europe, if Spain and the West-Indies are to be allotted to any Branch

of the House of Bourbon.'

Her Majesty's Answer was to this Effect:

My Lords,

rlia.

LER'

etired

ober.

hear,

ites.

poled to her

oufe, in or

any

very

when hould the

n bere by
nany
have
ould
Adand
and
carotes,
re in

an

yo

01 611

for

Take the Thanks you give me kindly. I should be The Queen's forry any one could think I would not do my utmost Answer. to recover Spain and the West-Indies from the House of Bourbon."

On Occasion of this Address the following Protest was

Diffentient'

We diffent to the Address, because the Nature of it is Protest occahanged, by the Insertion of the last Clause, from that of an sioned by the Address of Thanks; neither have we had any thing parlia- Address. nentary from the Throne, or otherwise laid before us,

whereon to ground fuch Advice as is therein contained. And we look upon it as an Encroachment on the Royal

Prerogative, in so hasty a Manner to declare our Opinions, nd on no better Grounds, in a Thing so essentially belong-

ng to the Crown as making of Peace and War.

Beaufort, Ofborn, P. St. Davids, Stawell, Hatton, * Job. Bristol, C. P. S. Willoughby de Broke, Clarendon, Denbigh, T. Chichester, Northumberland, Yarmouth, Plymouth, Delawar, Suffex, Thanet, Berksbire, North and Grey, Scarsdale, Cardigan.

The Duke of Hamilton, one of the fixteen Peers for Scotand, having some Months before been created a Peer of Great Britain, by the Stile and Title of Duke of Brandon, notwith-

Dr. Robinson, Lord Privy-Seal.

Debate about the Duke of Hamilton's Cafe, as to his Title of Duke of Brandon.

Anno 10 Anne, withstanding a Caveat entered against his Patent; and no many Lords, who apprehended no small Danger to our Con ftitution, from the admitting into their House a greater Nam. ber of Scotch Peers than were agreed to by the Union, upon a due Confideration of the Proportion of public Taxes mi by Scotland, resolved to oppose the faid Claim. Hereupon on Monday, the 10th of December, a Motion was made for taking that Matter into Confideration, which was done as cordingly; but after a few Speeches the Debate was al. journed to the Wednesday following. Some Court-Lord who were sensible that the discussing of this Affair would Arike at the Royal Prerogative, made that Day a Motion for adjourning, but it was carried by a Majority of three Voice only, that they should go on with the resumed Debate abor the Duke of Hamilton's fitting in the House as Duke of Brandon. However, after some Time spent therein, the further Consideration of that Business was put off till it 20th.

Bill of Occafional Conformity brought in by the Earl of Nottingham,

Earl of Scarborough. Earl of Whar-

The faid Bill fent to the Commons.

On Saturday the 15th of December, the Earl of Notting bam having brought into the House of Peers a Bill for pre ferving the Protestant Religion, by better securing the Chard of England as by Law established, and for confirming the Toleration granted to Protestant Dissenters, by an Ade titled, An Act for exempting their Majesty's Protestant Subjects, dissenting from the Church of England, from the Po nalties of certain Laws, and for supplying the Defects there of; and for the further securing the Protestant Succession, by requiring the Practifers of the Law, in North Britain, w take the Oaths, and fubscribe the Declaration therein mentioned. His Lordship was backed by the Earls of Scarb rough and Wharton, and feveral other Lords; fo that the Bl was received and read the first Time, without any Opposition. The Monday following, after the second reading of the Bill, the Lords took the same into Consideration, in a grand Committee, and having made fome Amendments to it, of dered it to be engroffed. The next Day the Bill having passed the House of Lords, was sent down to the Common, who read it immediately the first Time, and gave it a fecond reading the next Day. On the Thursday a Petition was offered to the House on behalf of the Dutch and French Pro testant Churches, praying that they might be excepted from the Restraints laid by this Bill on English Diffenting Congregations; but the Question being put, that the Petition be brought up, it passed in the Negative: After which the Commons, in a Committee of the whole House, (which that Morning was very thin) made feveral Amendments to

inhad a

nd h

T Num

ces paid

reupon,

One ac.

vas ad. Lords,

Would

ion for

Voice

about

ike of

i, the

otting

pre-hurch g the

Sub-e Pe-here-n, by

men-arbe-Bill

tion, the

ring ons, ond was tro-

the Bill. These Amendments being immediately reported Anne to Anna, and agreed to, the Bill was thereupon fent back to the House of Peers; who, the same Day, sent down a Message to the Commons to acquaint them, that they had agreed to those The Bill so amended is as follows: Amendments.

" Whereas an Act was made in the thirteenth Year of the Reign of the late King Charles II. entitled, An Act for the well governing and regulating of Corporations; and another Act was made in the five and twentieth Year of the Reign of the faid late King Charles II. entitled, An Act for the preventing Dangers which may happen from Popish Recufants; both which Acts were made for the Security of the Church of England, as by Law established: Now, for the better fecuring the faid Church, and quieting the Minds of her Majesty's Protestant Subjects diffenting from the Church of England, and rendering them secure in the Exercise of their religious Worship, as also for the further strengthening the Provision already made for the Security of the Succesfion to the Crown in the House of Hanover, Be it enacted by the Queen's most excellent Majesty, by and with the Advice and Consent of the Lords spiritual and temporal, and Commons, in Parliament affembled, and by the Authority of the same, That if any Person or Persons, after the five and twentieth Day of March, which shall be in the Year of our Lord 1712, either Peers or Commoners, who have or shall have an Office or Offices, civil or military, or receive any Pay, Salary, Fee, or Wages, by reason of any Patent or Grant from or under her Majetty, or any of her Majetty's Predecessors, or of her Heirs or Successors, or shall have any Command or Place of Trust from or under her Majesty, her Heirs or Successors, or from any of her Majesty's Predecessors, or by her or their Authority, or by Authority derived from her or them, within that Part of Great Britain called England, the Dominion of Wales, or Town of Berwick upon Tweed, or in the Navy, or in the several Islands of Ferfey or Guernsey, or shall be admitted into any Service or Employment in the Houshold or Family of her Majesty, her Heirs or Successors; or if any Mayor, Alderman, Recorder, Bailiff, Town-Clerk, Common-Council Man, or other Perion, bearing any Office of Magistracy, or Place, or Trust, or other Employment relating to or concerning the Government of any the respective Cities, Corporations, Boroughs, Cinque-Ports, and their Members, or other Port-Towns within that Part of Great Britain called England, the Dominion of Wales, Town of Berwick, or either of the Isles aforesaid, who by the said recited Acts, or either of them, 1711.

Anno to Annæ, were or are obliged to receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of England, as aforesaid, shall at any time after their Admis. fion into their respective Offices or Employments, or after having fuch Patent or Grant, Command, or Place of Trut. as aforefaid, during his or their Continuance in fuch Office or Offices, Employment or Employments, or having fuch Patent, or Grant, Command or Place of Trust, or any Profit or Advantage from the same, knowingly or willingly refor to, or be present at any Conventicle, Assembly or Meeting within England, Wales, Berwick upon Tweed, or the Ife aforesaid, for the Exercise of Religion in other manner than according to the Liturgy and Practice of the Church of En. land, in any Place within that Part of Great Britain called England, Dominion of Wales, and Town of Berwick won Tweed, or the Isles aforesaid, at which Conventicle, Assem. bly, or Meeting, there shall be ten Persons or more assembled together, over and besides those of the same House hold, if it be in any House where there is a Family inh. biting, or if it be in an House or Place where there is m Family inhabiting, then where any fuch ten Persons are is affembled, as aforefaid, or shall knowingly and willingly be present at any such Meeting in such House or Place, as afore faid, altho' the Liturgy be there used, where her Majely (whom God long preferve) and the Princess Sophia, or sed others as shall from time to time be lawfully appointed to be prayed for, shall not there be prayed for in expens Words, according to the Liturgy of the Church of England, except where such particular Offices of the Liturgy are uled, wherein there are no express Directions to pray for her Majefty and the Royal Family, shall forfeit forty Pounds, to be recovered by him or them that shall sue for the same, by an Action of Debt, Bill. Plant, or Information, in any of her Majesty's Courts at Westminster, wherein no Essoign, Protection, or Wager of Law shall be allowed, or any more than one Imparlance.

"And, be it further enacted, That every Person convided in any Action to be brought, as aforesaid, or upon any Information, Presentment or Indicament in any of her Majefly's Courts at Westminster, or at the Assizes, shall be diabled from thenceforth to hold such Office or Offices, Employment or Employments, or to receive any Profit or Advantage by reason of them, or of any Grant, as aforesaid, and shall be adjudged incapable to bear any Office or Employment whatfoever, within that Part of Great Briean called England, the Dominion of Wales, or the Town of Berwick upon Tweed, or the Isle of Jersey or Guernsey.

Provided

ha inc inc is Ch inc is ch inc is ch

ord's

hurch

dmif-

after Fruft,

Office

Profit

refort

eting Ides

than

Eng-

ffem.

stemoule-

inha-

is no re so

ly be

fore-

jefty fuch

ed to prefs

land,

used,

Ma-

o be

, by

y of

Pro-

nore

via-

any

Ma-

dif

Em-

Ad-

faid, Em-

eain

n of

idea

In Provided always, and be it further enacted, by the Anno 10 Annas, authority aforesaid, That if any Person or Persons, who hall have been convicted, as aforesaid, and thereby made occapable to hold any Office or Employment, or to receive my Profit or Advantage by reason of them, or of any Grant, is aforesaid, shall, after such Conviction, conform to the Church of England, for the Space of one Year, without having been present at any Conventicle, Assembly, or Meeting, is aforesaid, and receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of England, at least three times in the Year, every such Person of Persons shall be capable of the Grant of any the Offices or Employments, aforesaid.

"Provided also, and be it further enacted, That every such Person so convicted, and afterwards conforming, in Manner, as aforesaid, shall, at the next Term after his Admission into any such Office or Employment, make Oath, in Writing, in some one of her Majesty's Courts at Westminter, in public and open Court, or at the next Quarter-Sessions for that County or Place where he shall reside, between the Hours of nine and twelve in the Forenoon, That he that conformed to the Church of England for the Space of one Year, before such his Admission, without having been present at any Conventicle, Assembly, or Meeting, as aforesaid, and that he hath received the Sacrament of the Lord's Supper, at least three times in the Year; which Oath shall be there enrolled and kept upon Record.

"Provided, That no Person shall suffer any Punishment for the Offence committed against this Act, unless Oath be made of such Offence, before some Judge or Justice of the Peace who is hereby empowered and required to take the said Oath) within ten Days after the said Offence committed, and mless the said Offender be prosecuted for the same within three Months after the said Offence committed; nor shall any Person be convicted or any such Offence, unless upon the

Oaths of two credible Witnesses at the least.

"Provided always, That this Act, or any thing therein contained, or any Offence against the same, shall not extend or be judged to take away or make void an Office of Inheritance; nevertheless, so as such Person having or enjoying such an Office of Inheritance, do or shall substitute and appoint his sufficient Duputy (which such Officer is hereby empowered from Time to Time, to make or change any former Law or Usage to the contrary notwithstanding) to exercise the said Office, until such Time as the Person having such Office, shall conform, as aforesaid.

"And it is hereby further enacted and declared by the Z z 2 Authority

Anno 10 Anna, Authority aforefaid, that the Toleration granted to Pront. tant Diffenters by the Act made in the first Year of the Reign of King William and Queen Mary, entitled, An At for exempting their Majesties Protestant Subjects, diffenti from the Church of England, from the Penalties of cert Laws, shall be, and is hereby ratified and confirmed, and the the same Act shall at all Times be inviolably observed for the exempting of such Protestant Dissenters as are hereb tended, from the Pains and Penalties therein mentioned,

> " And for the rendring the faid last-mentioned Act more effectual, according to the true Intent and Meaning thereof Be it further enacted and declared by the Authority afore. faid, That if any Person dissenting from the Church of Enland, (not in Holy Orders, or pretended Holy Orders, or pretending to Holy Orders, nor any Preacher or Teacher of any Congregation) who should have been entitled to the Benefit of the-last mentioned Act, if such Person had duly taken made, and subscribed the Oaths and Declaration, or other wife qualified him or herfelf, as required by the faid Ad. and now is or shall be prosecuted upon or by virtue of any of the Penal Statues, from which Protestant Dissenters are enempted by the faid Act, shall at any Time, during such Profe cution, take, make, and subscribe the said Oaths and Deh. ration, or being of the People called Quakers, should make and subscribe the aforesaid Declaration, and also the Declaration ration of Fidelity, and subscribe the Profession of their Chris tian Belief according to the faid Act, or before any two of her Majesty's Justices of the Peace (who are hereby required to take and return the same to the next Quarter-Sessions of the Peace, to be there recorded) such Person shall be, and is hereby entitled to the Benefit of the faid Act, as fully and effectually as if fuch Person had duly qualified himself within the Time prescribed by the said Act, and shall be thencefortherempted and discharged from all the Penalties and Fortitures incurred by force of any the aforesaid Penal Statutes.

"And whereas it is or may be doubted whether a Preach er or Teacher of any Congregation of diffenting Protestant, duly in all Respects qualified according to the faid Ad, to allowed by virtue of the faid Act, to officiate in any Congregation or Place of Meeting, duly certified and register'du is required by the Act: Be it declared and enacted by the Authority aforesaid, That any such Preacher or Teacher, to duly qualified according to the faid Act, shall be and is hereby allowed to officiate in any Congregation, although the fame be not in the County wherein he was so qualified; provided that the faid Congregation, or Place of Meeting, hath been, before such officiating, duly certified and registered or

recorded according to the faid Act: And fuch Preacher or Ann to A Teacher, shall, if required, produce a Certificate of his having so qualified himself, under the Hand of the Clerk of the Peace for the County or Place where he fo qualified himfelf. which Certificate such Clerk of the Peace is hereby required to make; and shall also before any Justice of the Peace of fuch County or Place where he shall so officiate, make and subscribe such Declaration, and take such Oaths as are men-

tioned in the faid Act, if thereunto required.

in Aa

ereof.

afore.

f Eng.

r pre-

e Be-

aken,

other. A&

any

e em-

ecla.

nake

ecla-

hrif f her

d to

the

ere-

the

er-

fei-

.

ich-

nts,

on-

25

the

, 10

re-

the

th

" And be it further enacted by the Authority aforefaid. that on or before the 15th of June next, all Advocates, Writers to the Signet, Notaries Public, and other Members of the College of Justice, within that Part of her Majesty's Kingdom of Great Britain called Scotland, shall be, and are hereby obliged to take and subscribe the Oath appointed by the Act of the 6th Year of her Majesty's Reign, entitled, An Act for the better Security of her Majesty's Person and Government, before the Lords of Sessions of the aforesaid Part of her Majesty's Kingdom, except such of the said Perfons who have already taken the same: And if any of the Persons aforesaid, do or shall neglect, or refuse to take and subscribe the said Oath as aforesaid, such Person shall be ipso facto adjudged incapable, and disabled in Law to have, enjoy, or exercise in any manner his said Employment or Practice.

" And be it further enacted by the Authority aforesaid, that in all Time coming, no Person or Persons shall be admitted to the Employment of Advocate, Writer to the Signet, Notary Public, or any Office belonging to the faid College of Justice, until he or they have taken and subscribed

the aforesaid Oath, in manner as is above directed."

The same Day (December the 20th) the Lords resumed Debate about the adjourned Debate about the Duke of Hamilton's Claim Hamilton's to fit in that August Assembly, as Duke of Brandon, by vir- Patent, tue of his late Patent; the Queen being, incog. in the After learned Council in the Law for the Queen, the House of Lords, and the Duke of Hamilton, had been heard, several Speeches were made on both Sides, so that the Debate latted till near eight of the Clock in the Evening, when the Question was put, Whether the Twelve Judges should be consulted with? Which being carried in the Negative by fourteen Voices, Proxies included, another Question was put, Whether Scotish Peers, created Peers of Great Britain fince Two Queffions the Union, have a Right to fit in that House, which was also carried in the Negative by * five Voices.

On which Occasion was entered the following Protest:

pass'd in the Negative, and Protest thereon.

Diffentient'

^{*} Contents 57: Not Contents 52.

anno 10 Annæ, 3711.

Diffentient'

1st, Because, as we apprehend, by this Resolution, the Prerogative of the Crown in granting Patents of Honour. Protest thereon, with all Privileges depending thereon, to the Peers of Great Britain, who were Peers of Scotland at the Time of the Union, as well as the Right of the Duke of Branden to fit and vote in Parliament, are taken away; and this Prerogative of the Crown, and Right of the Duke, depending upon the Construction of an Act of Parliament, tho' Council, by Order of the House, were heard at the Bar, and all the Judges were ordered to attend at the same time, yet the Opinion of the Judges was not permitted to be asked touching the Construction of the said Act of Parliament.

2dly, Because the Prerogative of the Crown, as we con. ceive, in granting Patents of Honour, with the Privileges depending thereon, ought not, on the Construction of any Act of Parliament, to be taken away, unless there be plain and express Words to that Purpose in the said Act; and, we conceive, there are no such plain and express Words for that

Purpose in the Act of Union.

adly, Because, by this Resolution, all the Peers of Great Britain, who were Peers of Scotland at the Time of the U. nion, are supposed to be incapable of receiving any Patent of Honour from the Crown, by virtue whereof they may be entitled to the Privileges of fitting and voting in Parliament, and fitting on the Trial of Peers; which, we conceive, is repugnant to the fourth Article of the Act of Union, which declares the Privileges and Advantages which do or may belong to the Subjects of either Kingdom, except where it is otherwise expressly agreed in those Articles, in which, we apprehend, there is no such Provision.

4thly, Because the Duke of Queensberry, in all Respects, in the same Case as the Duke of Hamilton, was introduced, fat and voted in this House in Matters of the highest Importance, in two several Parliaments, as Duke of Dover, by virtue of a Patent passed since the Union; and in consequence of such sitting and voting, his Vote in the Election of Peers of Scotland was rejected; and as a further Confequence thereof, the Marquis of Lothian was removed from his Seat in in this House, which he had an indeniable Title to, if the Duke of Queensberry's Patent, as Duke of Down, had not given him a Title to fit and vote in this House.

5thly, Because, by this Resolution, the Peers of Scotland are reduced to a worse Condition, in some Respects, than

the meanest or most criminal of Subjects.

6thly, Because, we conceive, this Resolution may be construed to be a Violation of the Treaty between the two Na-Wintions.

ur.

at he

fit

22-

on

by .

he

Di-

ng

es

ny

in

we

at

J.

of

be

it,

18

ch

ay

15

ve

5,

d,

by

on

le.

m le

r,

20

Winchelfea, Ormond, Balmerino, Clarendon, Oxford and Anno to Annes Mortimer, Boyle, Kylfyth, Rivers, Blantyre, Hunfdon, Paulett, Harcourt, C. S. Hume, Mar, Loudoun, Ofborne, Roseberrie, Isla, Orkney.

The Queen being at this Time somewhat indisposed, her Majesty granted a Commission under the Great Seal, empowering the Lord Keeper, the Lord President of the Council, and other Lords, to give the Royal Affent to the two Bills agreed to by both Houses of Parliament, viz. the Land-Tax Bill, and the Act for preserving the Protestant Religion: Which their Lordships did accordingly on the 22d of December, having fent a Message to the House of Commons by the Gentleman-Usher of the Black Rod, to desire that House to come up to the House of Peers, to be present at the passing the faid Bills. The Commons being returned to their House, immediately adjourned to the 14th of January next; and it being expected that the House of Peers would do the same, many Lords went out of the House, but the Majority of those that staid, resolved to present an Address to the Queen

importing in Substance, 'That her Majesty would be pleased Address relating to give Instructions to her Plenipotentiaries, (in case she to the Peace.

has not already given such Orders) to consult with the Ministers of the Allies in Holland before the Opening of the Congress; that they concert the necessary Measures to pre-' serve a strict Union amongst them all, the better to obtain the great End proposed by her Majesty, for procuring to them all a just and reasonable Satisfaction, and for rendering the Peace more secure and lasting, which can only be 'effected by a general Guarantee of the Terms of the Peace to all the Allies, and of the Protestant Succession to these ' Kingdoms, as settled by Act of Parliament.'

Their Lordships having ordered the Lords with the White Staves to present this Address, adjourned no longer than to the 2d of January next. However, the Address being, according to Order, presented to the Queen on the 27th of December, her Majesty was pleased to make a gracious Anfiver, importing in Substance, " That she had given Instruc- The Queen's " tions to that Purpole already."

The Court Party in the House of Lords having appeared the weaker in the Business of the Duke of Brandon, whole Disappointment had given no small Disgust to the Scotist Nobinty; it was resolved to strengthen it by the Creation of several new Peers; the rather, because it was apprehended at the same time, that some vigorous Resolution would be taken against a certain Man. Hereupon, besides the calling Twelve new by Writ to the House of Lords, James Lord Compton, eldest Peers created.

Son

no 10 Anaz, Son to George Earl of Northampton, and Charles Lord Brace, eldest Son to Thomas Earl of Ailesbury, her Majesty was pleased, on the last Day of * December, to fign Patents creating the ten following Persons Peers of Great Britain, viz.

George Hay, Esq; one of the four Tellers of the Receipt of her Majesty's Exchequer, Baron Hay of Bedwarden in the

County of Hereford.

Thomas Lord Viscount Windfor, in the Kingdom of Ireland. Baron Mountjoy of the Isle of Wight, in the County of South. ampton.

Henry Pagett, Esq; Son and Heir Apparent of William Lord Pagett, Baron Burton of Burton, in the County of

Stafford.

Thomas Mansel, of Margam in the County of Glamorgan, Bart. Baron Manfel of Margam, in the County of Glamman aforesaid.

Sir Thomas Wollaton, in the County of Nottingham, Bart, Baron Middleton of Middleton, in the County of Warwick.

Sir Thomas Trever, Knt. Chief Justice of her Majesty's Court of Common Pleas, Baron Trevor of Brombam, in the County of Bedford.

George Granville of Stow in the County of Cornwall, Eles Baron Lansdowne of Biddiford, in the County of Devon.

Samuel Masham of Oates in the County of Esfex, Esq: Baron Masham of Oates, in the County of Essex aforesaid.

Thomas Foley of Witley in the County of Worcester, Esq.

The next Day, viz. January the first, It was declared at Cout, that the Duke of Ormond had the first Regiment of Foot-Guards, commanded by the Duke of Marlborough, bestow'd upon him; and, the Days after, it was publickly made known in the Gazette, that her Majesty had been pleas'd to constitute his Grace the Duke of Ormond Commander in Chief of all her Majesty's Land-Forces in that Part of the Kingdom of Great Britain, called England; that the Duke of Northum-berland was appointed Captain and Colonel of her Majesty's second Trop of Horse-Guards, in the Room of the Duke of Ormond; and the En Rivers made Master General of her Majesty's Ordnance, in the Room of the Duke of Marlborough, and Colonel of her Majesty's Royal Regiment of Horse-Guards, in the Room of the Duke of Northumberland. The Duke of Ormond feeming unwilling to accept the Command of the Form in England only, the Queen was, a few Days after, pleased to fign another Commission, appointing his Grace Commander in chief of all has Majesty's Forces in Great Britain. On the eleventh of January, the Duke of Beaufort was appointed Captain of the Band of Pensioners, in the Room of the Duke of St Albans: About the same time Thomas Harles Esq; Coufin to the Lord High-Treasurer, and Co-adjutor to the Secretary of the Treasury, was named to go to Hanover, with a secret Commission; and, towards the end of February, the Queen thought fit to sign a Commission, appointing the Duke of Ormond Captain-General of all and fingular her Majesty's Forces, raised or to be raised and employed in the Service, within the Kingdom of Great Britain, or which are or shall & employed abroad, in Conjunction with the Troops of her Allies.

Baron Foley of Kidderminster, in the faid County of Wor- Anno to Ames cefter. And 1711-12.

Allen Bathuft of Battlesden in the County of Bedford, Big; Baron Bathurst of Battlesden, in the County of Bedford afore-

January the 2d, The Lords being met, according to the last Adjournment, the twelve new Peers were introduced and The new Lords admitted without any * Difficulty; and after the reading of introduced into their Patents, (the Preambles of which were short, and al- the House of most the same, except that of the Lord Masham) they took Peers. their Seats in the House. The Lords with the White-Staves did afterwards report to their last Address, about the Negotiation at Utrecht; importing in Substance, "That her Majesty thought her Speech to both Houses would have given Sa- The Queen's " tisfaction to every body; and that she had given Instruc-Lords Address " tions to her Plenipotentiaries, according to the Defires of about the Nego-" this Address." This done the Lord-Keeper deliver'd to tiation of Peace. the House a Message from the Queen, importing, "That Message from "her Majesty having Matters of great Importance to both her Majesty, de-" Houses of Parliament, she defired the House of Lords to firing the Lords " adjourn immediately to the 14th Instant," being the same to adjourn. Day to which the Commons had adjourn'd themselves. Hereupon many Lords cry'd, Adjourn, Adjourn ; but others crying, No, No: There arose a warm Debate; and the

Question being put, Whether the House should adjourn: It was carried in the Affirmative, by a Majority of fixty With which the three Voices present, and eighteen Proxies, against forty nine Lords, after De-

present, and nineteen Proxies.

The same Day, several of the Scotiff Peers present- Representation ed to the Queen an humble Representation about the late of the Scotish Judgment of the Lords in relation to the Validity of the Lords. Duke of Hamilton's Patent, whereby he was created Duke of Brandon; to which her Majesty returned the following Aniwer:

My Lords.

race,

reat-

iz.

ot of the

outh.

of

gan

art.

fty's

the

ron

ilq;

TOR

om-

hree Ma-

om:

um-

roop Earl

n of

The

rces

the

Am forry there should be any Occasion given for this The Queen's Representation. I am resolved to preserve the Union Answer. " between the two Kingdoms; and to do my utmost En-" deavour to find out the most reasonable Method for your " Satisfaction."

The Court having yet no News of the opening of the Congress, Councils were held on Saturday and Sunday the 12th and 13th of January, in which it was debated, Whe-Aaa

It had been whisper'd, the Day before, that in a Consultation of Anti-Courtiers, it had been proposed, either not to admit the said Lords, er to protest against their being made during the Session,

bate, comply.

Anno 10 Anne, ther the Parliament should be defired further to adjourn them. 1711-12. felves? And it being carry'd for the latter, the following Message was, on the 14th, sent to both Houses.

ANNE R.

The Queen's Message to both Houses for a fur- " ther Adjournment.

TER Majesty was fully determined to have been per-I fonally present in Parliament this Day, but being prevented by a sudden Return of the Gout, her Majelly, in hopes she may, by the Blessing of God, be able to speak to both her Houses of Parliament, on Thursday next, de-" fires this House may forthwith adjourn itself to Thursday " next, the 17th of this Instant January."

And both Houses adjourned accordingly.

Being met again, the Queen sent a second Meffage to both Houses, which see in CHANDLER's History, Anno 10 Annæ, 1711, Page 243, except the following Paragraph, which was peculiar to that of the Lords, in lieu of that concerning the Supplies, which was likewife peculiar to the Commons.

A fecond Mefing to the Case of the Scotish

"There is one Thing in which her Majesty's Subjects of fage; in which the North Part of this Kingdom are extremely concerned, is a Clause relat- the Distinction such of them who were Peers of Scotland before the Union must lie under, if the Prerogative of the Crown is firicity barr'd against them alone. This is a Matter which fenfibly affects her Majesty, and she therefore hy it before this House, earnestly desiring their Advice and Concurrence in finding out the best Method of settling this Affair to the Satisfaction of the whole Kingdom."

Hereupon the Lords resolved to present an Address of Thanks to her Majesty for her gracious Message; and upon a Motion made by the Lord Somers, it was agreed that to these Words, ' And particularly with relation to Spain and the West-Indies, the following should be added, viz. Which are of lo great Concern to the Safety and Commerce of your Majesty's Kingdoms.' The same Day, upon a Motion made by the Earl of Dartmouth for giving Satisfaction to the Scotish Peers, another Peer faid, He should be glad to know what Satisfaction that should be; but all being filent that Bufinels was put off to another Day.

On the 18th of January, the House of Lords, in a Body, waited on the Queen with the following Address:

The Lords Addrefs of Thanks. &

7E, your Majesty's most dutiful and loyal Subject, the Lords spiritual and temporal in Parliamental fembled, beg Leave to express our extreme Concern for the Continuance of your Majesty's Indisposition, by which we were deprived of the Honour of your Royal Presence; and at the fame time befeech your Majefly to accept of the Anno to Anne, most humble Thanks of this House for your most gracious

Message on the 17th Instant, wherein your Majesty is pleased to express your just Care for all your Allies, and the friet Union, in which your Majesty proposed to join with them in order to obtain a good Peace, and to guaranty and 4 support it when obtained; and for the Instructions your 4 Majesty has given to your Plenipotentiaries, to concert the most proper Way of procuring a just Satisfaction to all in Alliance with your Majesty, according to their several Treaties, and particularly with relation to Spain and the West-

Indies, which are of fo great Concern to the Safety and

Commerce of your Majesty's Kingdoms.

We think ourselves obliged more especially to return our humblest Acknowledgments for your Majesty's great Condescension in acquainting this House with the Steps already taken in relation to the Peace, and for the Assurance your Majesty is pleased to give of communicating to this House ' the Terms of the Peace before the same shall be concluded. 'Your Majesty's Declaration, that there has not been the ' least Colour given for those false and scandalous Reports ' that have been spread, that a separate Peace has been ' treated, must be the highest Satisfaction to all your People; and we readily embrace this Opportunity to affure your 'Majesty, that we entirely rely upon your great Wildom, in fettling the Terms of Peace.'

Her Majesty's Answer was as follows:

My Lords,

them.

Ming

perbeing

jelly, **peak**

riday

ge to

10 10

aph,

Con-

the

ts of

ned,

be-

the

Mat-

lays

on-

of

t to

ich

IOI he

Return you my most hearty Thanks for this Address, and for the Confidence you place in me; which will " better enable me to obtain such Terms as may be safe and " honourable for my own Subjects, and all our Allies."

The Queen's

About the latter End of December a Motion having been Duke of Devogmade in the House of Lords, by the Duke of Devonshire, for thire's Motion bringing in a Bill to fettle the Precedence of the most illuf for fettling the trious House of Hanover in Great Britain: When the Peers Precedence of met again on the 17th of January, the Lord High Treasu- the House of rer, who was glad of an Opportunity to express his Zeal and Affection for the Protestant Heir, presented to that House a Lord Treasurer Bill entitled, An Act for fettling the Precedence of the most brings in a Bill excellent Princess Sophia, Electress and Dutchess Dowager of thereon. Hanover, of the Elector her Son, and of the Electoral Prince the Duke of Cambridge. This Bill was that Day read twice by the Lords; and the third Time the next Morning; and

Aaaz

B711+12.

Anno roAnne, by the Lord Chief Justice Parker, and Mr. Justice Eye, ex. ried down to the Commons, who read it three Times, with out any Interruption, and having resolved that it should not Nemine Contradicente, fent it back to the Lords by Mr. Secre.

tary St. John.

On Monday the 21st of January, the Lords took into Con. fideration that Part of the Queen's Message of the 17th of the fime Month, relating to the Scotish Peers made Peers of Great Britain, and amongst other Expedients, it was proposed, that her Majesty should create fixteen Hereditary Peers to repre. fent the Nobility of Scotland in the British Parliament, being the Number agreed on by the Act of Union : But this Pro. ject being liable to many Inconveniencies, no great Streft was laid upon it; and after a small Debate that Affair was put off till the 25th. That Day their Lordships resumed the Debate about the Duke of Hamilton's Patent, and resolved that that Matter was cognizable by this House only; and then adjourn'd it again to the 31st of January, when it was dropp'd : By which it appears, that their Lordships adhered to their former Judgment.

The Affair about the Duke of Hamilton's Patent drop'd.

Proceedings on the Bill in fayour of Episcopal Communion in Scotland.

On the 13th of February, the House of Peers, before they proceeded to the second reading of the Bill passed by the Commons in favour of those of the Episcopal Communion in Scotland, heard Council in behalf of the Presbyterians of that Part of Great Britain, who opposed the said Bill. The Lawyers alledged in general, that this Bill annulling an Ad ratified by the Treaty of Union, might be attended with very fatal Consequences: And then made particular Objections to the Bill itself, as that it granted Toleration to all Episcopal Ministers, under colour whereof, popish Priests might present to perform the Romish Service in Scotland. The Council having done pleading, the Bill was read a fecond Time, and committed to a Committee of the whole House, into which the Lords resolved themselves the same Day. Hallifax and the Bishop of Salisbury endeavoured to shew Bp. of Salisbury. the Inconveniencies and Danger of fuch a Bill, especially at this Juncture: And after some other Lords had made Speeches pro and con, it was resolved to add several Clauses to the Bill, particularly for limitting the Toleration to fuch Minithers, as have received Holy Orders from the Hands of a Protestant Bishop, and who have taken and subscribed the Oaths of Allegiance and Abjuration; as also for obliging the Ministers of the Established Church of Scotland, to take and subscribe the said Oaths. On the 15th, these Amendments were reported, and agreed to by the House of Lords, who the next Day fent down the Bill to the Commons; and the latter having taken these Amendments into their Consideration.

Lord Hallifax.

deration, agreed to them, with a small Amendment of their Anno 10 Anne, own, to which the Lords also agreed.

The French Plenipotentiaries at the Congress of Utrecht, A about this Time, delivered their Proposals in Writing, as fol-

lows:

ith.

pafs

CTC-

the

real

that pre-

ro-

refs

Was

the

ved

and

W23

d to

hey

the

ion

of

The

Aa

ery

s to

pal

end

ncil

and

ich

ord

lew

at at

hes

the

ni-

fa

the

ing

ke

nd-

ds.

ind

ofi-

on.

A Specific Explanation of the Offers of France for a general Peace, to the Satisfaction of all the Parties concerned in the present War.

THE King will acknowledge at the figning of the Specific Expla-Peace, the Queen of Great Britain in that Quality, nation of the as also the Succession of that Crown according to the present Offers of France. Settlement, and in the Manner her Britannic Majesty shall

please.

His Majesty will cause all the Fortifications of Dunkirk to be demolished immediately after the Peace, provided an

Equivalent be given him to his Satisfaction.

The Island of St. Christopher, Hudson's Bay and Strait of that Name, shall be yielded up entire to Great Britain; and Acadia, with Port Royal and the Fort, shall be restored entire to his Majesty.

As to the Island of Newfoundland, the King offers to yield up that also to Great Britain, reserving only to himself the Fort of Placentia, and the Right of catching and drying

Fish, as before the War.

'It shall be agreed to make a Treaty of Commerce before or after the Peace, as England shall chuse, the Conditions of which shall be made as equal between the two Na-

tions as they can possibly.

The King will confent at the figning the Peace, that the Spanish Netherlands, which are given over to the Elector of Bavaria by the King of Spain, shall serve for a Barrier to the United Provinces; and to augment it, he will join thereto Furnes and the Furner Ambacht or District, Knook, Ypres, and the Castellany of Menin, with its Verge: In Exchange, his Majesty demands to form the Barrier of France, Aire, St. Venant, Bethune, Douay, and their Dependancies.

If the States General are defirous to keep Garrisons in the fortified Towns of the Barrier so formed of the Dominions transferred to his Electoral Highness, and of what France adds thereto of its own, his Majesty consents, that they shall put their Troops into them in as great Number as they please; and besides, that they shall be maintained at

the Expence of the Country.

'In Confideration of this Cession, and of this Consent, the King, on his Side, demands, as an Equivalent for the demolishing

Anno 10 Annæ, molishing of Dunkirk, the Towns and Citadels of Lift and 1711-12. Towns, with their Castellanies and Dependancies.

The Barrier thus regulated between France and the States General, the King will grant for augmenting the Commerce of their Subjects, what is stipulated by the Treaty of Ryfwick, and the advantageous Tarif of 1664, with an Exception only of fix Sorts of Merchandize which shall be agreed on, and which be charged with the same Duties that are paid at this Time; as also the Exemption of 53 Sols for Tun on the Dutch Shipping that come into France from the

United Provinces and foreign Countries,

As to the Commerce of Spain and the Indies, the King will engage, not only to the States-General, but likewife in her Britannic Majesty, and to all the other Potentates, by virtue of the Power he has in this Particular, that the suit Commerce shall be allowed exactly, and carried on in the very same Manner as it was, under the Reign, and till the Death of Charles II. and will promise, that the French shall submit; as all the other Nations, to the antient Laws and Regulations made by the King his Catholic Majesty's Predecessors, with respect to the Commerce and Navigation of

the Spanish Indies.

Europe may enter into the Guaranty of this Promise. His Majesty promises, that the King his Grandson shall renounce, for the Sake of the Peace, all Pretensions to the Kingdon of Naples and Sardinia, as well as to the Dutchy of Milas; in whose Name he will consent, that the Part of that Dutchy which is made over to the Duke of Sawoy, shall remain this Royal Highness: Provided, that, in Consideration of this Cession, the House of Austria do, in like manner, desist from all Pretensions to the other Parts of the Monarchy of Spain, from whence that House shall withdraw their Troops in mediately after the Peace.

The Frontiers on both Sides, upon the Rhine, shall be fettled on the same Condition as they were before the profes

War.

In Consideration of all the Terms above specified, is King demands that the Electors of Cologn and Bavaria sale be re-established in the full and entire Possession of their Deminions, Dignities, Prerogatives, Goods moveable and is moveable, which they enjoyed before this present Wat: And reciprocally, his Majesty will recognize in German and Prussia, all the Titles which he has not yet acknowledged.

The King will restore to the Duke of Savoy what has taken from him during this War; as in like manner in

Royal Highness shall restore to him what he has taken Anno to Anno, from France; so that the Limits on both Sides shall be the 1713-12.

sme they were before the Declaration of War.

ifle and

and the

e Com.

reaty of

an Er

shall be ties that

Sole per

rom the

e King

ewife to

tes, by

the faid

in the

till the

ch shall

ws and

's Pre.

tion of

tates of

ngdom

Mila:

Dutchy

nain b

of this

t from

Spair,

ps im-

all be

refent

d, the hall ir Do

d in-

War:

rman

EDOW-

at he er his

Roya

All things, as to *Portugal*, shall be re-established, and remain on the same Foot in *Europe* that they were before the present War, as well with regard to *France* as to *Spain*; and, as to the Dominions that Crown hath in *America*, if there be any Differences to settle, Endeavours shall be used to agree them amicably.

'The King will confent freely, and, bona fide, to take, in Concert with the Allies, all the most just Measures, for hindering the Crowns of France and Spain from being ever united on the same Head; that is to say, that one and the

fame Prince shall never be at once King of both.

'All preceding Treaties, that is, those of Munster, and others that have been made fince, shall be repeated and confirmed, to remain in their Force and Virtue; excepting only such Articles, from which the Treaty of Peace now to be made, shall derogate, or alter something.

Signed HUXELLES.

February the 15th, The Lord Hallifax made a Motion Lord Hallifax's in the House of Lords, for presenting an Address to the Motion in the Queen, about the specific Offers of France, which his Lord House of Lords ship called, trifling, arrogant, and injurious to her Majesty thereon. and her Allies. H: was seconded by several Peers, of both Parties, who faid, in Substance, That those Propositions ought to be rejected with the utmost Indignation; that it plainly appeared France had no other Defign in view than to amuse and divide the Allies; and in particular, that it was derogatory to her Majesty's Honour, to enter into any Negotiation with that Crown, before her Majesty's just Title was acknowledged. Some Endeavours were used to adjourn the Debate to the Monday following, or, at least, to the next Day; by suggesting 'That the Offers that were handed about, having yet no other Authority than their being inserted in the Holland Gazettes, might not be genuine; and therefore the Lords ought not to take any Notice of them, till such time as the Queen had communicated them to the House.' But this, and other Arguments, were over-ruled, and, it was resolved, without dividing, to address her Majefly. A Committee was thereupon appointed to draw up that Address, which, the same Day, was reported, and agreed to, and, by the whole House, presented next Day to the Queen, as follows:

Anno to Anna, Most pracious Sovereign,

The Lords Ad drefs on the fame Occasion.

TE, your Majesty's most dutiful and loyal Subjects. the Lords spiritual and temporal in Parliame affembled, beg Leave humbly to represent to your Majely, the juit Indignation of this House at the dishonourable Treatment of your Majesty by France, in having proposed to acknowledge your Majesty's Title to these Realms no fooner than when the Peace shall be figned. And we can not forbear expressing our utmost Resentment at the Terms of Peace offered to your Majesty, and your Allies, by the Plenipotentiaries of France: And we do, with the greates Zeal and Affection, affure your Majesty, that this House will stand by, and assist your Majesty with our Lives and Fortunes, in carrying on this War, in Conjunction with your Allies, till a fafe and honourable Peace can be ob tained for your Majesty and your Allies.'

The Queen's Answer was to this Effect : Lacourse Sugar 10 /2

My Lords,

The Queen's Answer.

Return you my hearty Thanks for the Zeal you express for my Honour; and for the Assurance you go " of supporting me."

The Place-Bill rejected by the Lords.

The 29th of February, the Lords read the second Time the Bill from the Commons, for fecuring the Freedom of Parliaments, by limiting the Number of Officers fitting in the House of Commons: Which being committed to a Committee of the whole House, their Lordships immediately resolved themselves into that Committee; and after a Debat which lasted till Nine o'Clock in the Evening, the Quellion being put, Whether the faid Bill should pass? It was carried in the Negative, by five or fix Voices: Some Peers, who wen faid to be for the Bill, being absent, and not having left their Proxies.

Bill fent up to the Lords.

The Commons having on the 7th of April read the third The Patronage- Time, and passed the Bill to restore * Patrons to their ancient Rights in Scotland, and fent it up to the Lords for their Concurrence, the Agents for the Presbyterians of that Part of Great Britain, resolved to follow it thither, and thereupon drew up to the following Representation:

> To the most honourable the Lords spiritual and temporal in Parliament assembled.

> The humble Representation of William Carstaires, Thomas Blackwell, and Robert Baillie, Ministers of the Church of Scotland, appointed by the Commission of the late General Affembly

See CHANDLER'S Hift, Anno 12 Annæ, 1712. Page 276.

bjeds,

ament

a jefty, urable

ms no

e can.

Cerms

y the

eatest Iouse

s and with

e ob-

ex.

the

Par-

the

om-

ers.

neir

ent

of

n

Affembly of the Church of Scotland, to take all proper Anno it Anna and legal Methods for preferving the Rights and Privileges of the aforefaid Church.

T is with all humble Duty and Submission represented Representation unto your Lordships, that this depending Bill seems to in the Name of the Commission of the Commission of the Church well secured by the Treaty of Union, and solemnly ratified Scotland, against by the Acts of Parliament in both Kingdoms. That this the Patronages may be more clear, it is to be observed, that, from the first Bill. Reformation from Popery, the Church of Scotland hath always reckoned Patronages a Grievance and Burden, as is de-clared by the first and second Books of Discipline, published foon after the faid Reformation, fince which Time they were fill judged a Grievance, till at length they came by Law to be abolished.

These Patronages having been restored with Episcopacy. in the Year 1661 and 1662, did continue to the Year 1690: That Episcopacy was abolished, and Presbyterian Church Government again established; and tho' the Act of Parliament in 1690, resettling Presbyterian Church-Government, was founded upon the Act of Parliament in 1592, which bears a Relation unto Patronages, yet the faid Act of Parliament in 1690, doth expressly except that Part of the old Act, and refer Patronages to be thereafter confidered, which accordingly was confidered in the same Parliament in 1590, whereby it is-plain, that the Abolition of Patronages was made a Part of our Church-Constitution, enacted by the Act in 1690, and that this Act in 1690, with all other Acts relative thereto, being expressly ratified and for ever confirmed by the Act for securing the Protestant Religion and Presbyterian Government, and engrossed as an essential Condition of the Ratifications of the Treaty of Union past in the Parliaments of both Kingdoms; the faid Act abolishing Patronages must be understood to be a Part of our Presbyterian Constitution, secured to us by the Treaty of Union for ever.

Yet it is to be particularly confidered, that the same Parliament in 1690 was so tender of the civil Rights of Patrons, and so sincerely defirous only to restore the Church to its just and primitive Liberty of calling Ministers, in a way agreeable to the Word of God, that they only difcharged the Patron's Power of presenting Ministers to vacant Churches, but as to any thing of civil Rights, did make the Condition of Patrons better than before, not only by relerving unto them the Right of Disposal of vacant Stipends for plous Uses within the Paroch, but also giving unto them the heretable Rights of the Tythes, restricting the Minister, 1713.

Bbb

Anno 11 Anna, who formerly had the faid Right to Stipends, much below the Value of the faid Tythes, notwithstanding which advan. tageous Concession to the Patrons by the Parliament, this Bill takes back from the Church the Power of Prefentation of Ministers, without restoring the Tythes which formerly belonged to her, by which the Patrons come to enjoy both the Purchase and the Price.

This being then the true Account of our legal Settle. ment as to this Matter, it appears to be evident that the Re. stitution of Parronages, as to the Point of Presentation, can only gratify a few, while on the other hand it must necesfarily disoblige a far greater Number, that are now freed of that Imposition; and indeed it cannot but feem strange, that this Bill should be so much infisted upon, when there are to many Patrons, and those of the most confiderable in Scotland.

that are against such a Restitution.

It also appears, that Presbyteries must come under many Difficulties and Hardships, as to their Compliance with this Innovation, and that many Contests, Diforders and Differences, will probably enfue betwixt Patrons, Presbyters, Heretors and People, besides the known Abuses wherewith Patronages have been attended even in their most settled Condition; whereof many Instances might be given; especially, that thereby a Foundation was laid for fimoniaci Pactions betwixt Patrons and those presented by them, and likewise Ministers were imposed upon Paroches by Patron who were utterly Strangers to their Circumstances, having neither Property nor Residence therein.

It is therefore with all Submission expected from your Lordships Justice, and mature Deliberation, that a Bill, as we humbly conceive, fo nearly affecting the late Union in one of its most fundamental and essential Articles, respecting the Preservation of the Rights and Priviliges, which our Church at that Time was possessed of by Law, for the Security of which the Parliament of Scotland was fo much concerned as not to allow their Commissioners to make it any Part of their Treaty, but referved it as a Thing unalterable by any Judicature deriving its Constitution from the faid Treaty, shall not be approved by your Lordships, especially while the Nature of the Treaty itself shews it to be a reciprocal

Transaction betwixt the two Nations.'

W. CARSTARES. T. BLACKWELL. R. BAILEY.

It is observable, that this Representation was first printed and presented with this Title, To the Most Honourable the

tation merly

both

Settle-

e Re-

, can

neces.

eed of

. that

tre fo tland,

many

h this

Diffe-

, He-

ewith

ettled

espe-

niacal

and

trons

aving

your

1, as

on in

ating

our

unity

rned

ert of

any eaty, vhile

rocal

8.

L.

eers

Peers of Great Britain; but an Exception being taken to it, Anno 11 Anna, because it seemed either to imply that the Bishops were Peers upon the same foot with the temporal Lords, or to exclude them from being concerned in the Address; neither of Exceptions tathem from being concerned in the Address; which would be admitted; the faid Representation was there- Title of this upon withdrawn, and new printed and presented as above. Representation. It is also to be observed, that notwithstanding the said Misake, which some were apt enough to construe as an intended Slight on Episcopacy, yet five of the Bishops, who entermined more charitable Thoughts, and were apprehensive of the fatal Consequences of the Bill for restoring Lay Patro The Bill to renages, gave their Votes against it. But the Majority of the store Lay Pa-House of Lords were of another Opinion; and so the Bill tronages in Scotwas on the 14th of April fent back to the Commons with a Houses, land, paffes both small Amendment, to which the Commons afterwards agreed.

On Saturday the 17th of May their Lordships read the Grants Bill the first Time, and the Question being put that The Grant-Bill the Bill be read a second time, it was carried in the Affir read the first mative, by a Majority of two Voices. Accordingly, on the Time. 19th, the Bill was read the fecond Time, and committed to a Grand Committee, into which the House resolved itself im-The Duke of Argyle, the Earl of Wharton, the Duke of Argyle. Lords Cowper and Hallifax, and several other Peers made Earl of Wharfine Speeches against the Bill; but though there were fix or ton. seven Divisions in the Committee, yet the Affirmative still Lord Hallifax. carried it by one Voice. The next Day the Bill was read the third time, and after a long Debate, the Question being put, that the Bill do pass, there happened to be 78 Voices on each fide, viz. 53 present, and 25 Proxies for the Affirmative, and 52 present, and 26 Proxies for the Negative : The Bill drop'd. Whereupon, according to Custom, the Bill was lost, to the

great Mortification and Disappointment of its Abettors. On Tuesday the 27th of May, the Lord Hallifax acquaint- Debate in the ed the House of Peers, that he had Matters of great Impor- House of Lords tance to lay before them, and defired that the Members of about the Duke that illustrious Affembly might be summoned to attend the clining to fight.

Service of the House the next + Day; which being ordered accordingly, his Lordship began his Speech with taking No- Ld. Hallifax, tice of the strange Declaration made by the Duke of Or-

mond,

* See CHANDLER's History, Anno 11 Anna, 1712, Page 299, and 303.

Bbbz

[†] In the Debate of this Day, the Earl of Paulett having dropp'd some Expressions that were construed to reflect on the Duke of Marlborough, the latter, at the Instigation of the Lord Mohun, sent the other a Challenge, of which her Majesty having timely Notice, Care was taken to prevent the Duel, and compose the Quarrela

Anno 11 Anne, mond, That he had Orders not to act Offentively against the

Lord High Treafurer.

Enemy; afterwards endeavoured to shew the ill Confee of fuch a Proceeding; and the Necessity of carrying War with the utmost Vigour, in order to obtain a fafe and honourable Peace; And, in the Conclusion, made a Motion for addressing the Queen, humbly to defire her Majely to lay before the House the Orders she had sent to her Ge. neral; and to order him to act Offensively in concert with the Allies.' Several other Lords spoke to the same Purpose; back'd his Lordship's Motion, and press'd the Lords in the Ministry, to acquaint the House, whether any Orders or Restraint had been sent to the Duke of Ormond? The Lord High Treasurer answered most of those Speeches; and hav. ing affured the House, ' That in a very few Days her Ma. e jesty, according to her Promise, would lay before them the Conditions on which a General Peace may be made; which he doubted not would give entire Satisfaction to every Member of that Illustrious Assembly, and to all true Englishmen. The Lord Hallifax would therepor have dropt his Motion, but the opposite Party being secure of a Majority, infifted to have the Question put for adjourning the Debate; which being done accordingly, the fame was carried in the Affirmative by 68 Voices, against 40; whereupon feveral Lords entered their Protests. It is objesvable, that the Lord Treasurer having declared, That there was no separate Peace, and that the same would be soolih E. of Wharton. knavish and villainous, the Earl of Wharton defired that Illus

trious Assembly to remember that Declaration. After this, E. of Strafford. upon a Motion made by the Earl of Strafford, it was refoled to Address her Majesty, & To defire that she would be pleased to cause the Papers relating to the Negotiations of the Hague and Gertruydenbergh to be laid before the House.' It was observed before, That on the 28th of May, seve-

ral Lords not only made warm Speeches, but protested against the Orders produced by the Duke of Ormond, not to st Offensively against the French. Not many Days after, the faid Protest was published in Print, containing in Substance, 1 A. That their Lordships conceiv'd, such an Order as was proposed in the Question, to be absolutely necessary, because they were convinced that the Duke of Ormand lay under some Order of Restraint from acting Offensively, not only from the Accounts which were public both here and in Holand, of his declaring it to Prince Eugene and to the Deputit of the States, at their late Consultation, when both Print Eugene and those Deputies earnestly press'd him to join in attacking the French Army, which was then known to be much inferior to that of the Allies, both in the Number and

The Substance of the LordsProtest against the Orders for not fighting.

oft the

fe and

er Ge.

t with

e Pur-

ers or

bay.

r Ma-

them

bade ;

on to

la o

eupon

lecure | djour-

fame 40; bier-

olifh,

Illuf-

this,

olved enfed

f the

eve-

ains

ps c

, the

nce,

aufe nder

nly

ties

nce

Condition of their Troops, but also that nothing of this Anno 12 Ann whole Matter was denied by those Lords, who had the Means of knowing these Facts, as undoubtedly would have been without Scruple, had not the faid Pacts been true; fince no Scruple was made of acquainting the House with a subsequent Order very lately fent to the Duke of Ormand, allowing him to join in a Siege : Which was a further Evidence that he had before some Order of Restraint, for otherwife this last Order would be unnecessary and absurd; it being a general, constant, and standing Instruction to every Commander in chief, by Land or Sea, to do his utmost Endeavour to annoy the Enemy. And it is manifest by this last Order, that even in the Opinion of the Ministers, it was expedient to take off this Restraint, to some Degree; and the leaving the Duke of Ormand still under a Restraint from giv. ing Battle to the French, feem'd most unaccountable, and inconfisent with the Liberty indulged to him of joining in a Siege, and render'd it altogether useless: For no Place, when taken, could be of fuch Advantage to the Allies as Cambray, which opens a free Passage for our Army into the Heart of France; and it was impossible to befiege that Place, without dislodging the French from their Encampment; and this also was impossible, if the French would keep their Ground. Other Attempts feem'd to be of little Ufe, but might serve to give the French Time, which they did not want Skill to improve.

adly, That they conceiv'd it would be derogatory to her Majesty's Honour, to public Faith, and that Justice which was due to her Majesty's Allies; and that it was a fort of imposing upon our Allies a Cessation of Arms, without their Consent, and in the most prejudicial Manner, because they were not fo much as acquainted with it, and fo might have been led into great Difficulties; besides that, it frustrated all effential Advantages against the common Enemy, which might be of fatal Consequence to this Nation and all Europe.

3dh, Because it was acknowledged that a general Peace was not concluded, as indeed it was very unlikely it should be, there having been no Answers in Writing given by the French to the specific Demands of the Allies, tho' the same were deliver'd to the French three Months ago: And it was further declared, That there was no separate Peace, nay, that such a Peace would be foolish, knavish, and villainous. And, therefore, while we were in War, and having no Security of a Peace, their Lordships conceived that such an Order of Restraint was a plain Neglect of all those happy Opportunities which Providence might, and lately did, put into our Hands, of subduing our Enemy, and forcing him

and it Anne, to a just and honourable Peace. And furely it was improdent and dangerous to rely on the Promises of France, which were so far from being any Security, that even a Peace would not be safe, in their Opinion, unless it be such as gave so full Satisfaction to the Allies, that they should be willing to join with us in a mutual Guaranty of it.

That her Majesty having with great Wisdom declared to this Parliament, That the best Means of obtaining a good Peace, was to make early Preparations for War, and a vigorous Profecution of it: And fince the Parliament had with great Duty and Deference to her Majesty, and a just Zeal for the Interests of their Country, and of Europe, given very great Supplies for that Purpose. Their Lordships conceived that such an Order of Restraint, being very different from that Declaration of her Majesty, must be the Effect of very ill Advice; by which the Parliament's good Intention would be defeated, and all those heavy Loads of Taxes, which they have for so good Purposes chearfully given, render'd fruitless and unnecessary; and might, in Conclusion. after having thus trifled away our Wealth and Time, bring us into the Necessity of accepting such a Peace, as it should please an insolent and domineering Enemy to give us.

This Protest was also published Abroad in French and other Languages; and the Names of the Peers who figned it, were the Dukes of Devonsbire, Marlborough, Rutland, Bolton, Montagu, and Somerfet; the Marquis of Dorchefter; the Earls of Wharton, Derby, Nottingham, Bridgewater, Godolphin, Carlifle, Orford, and Scarborough; the Lord Viscount Townshend; the Lords Bishops of Oxford, Sarum, Bangor, and St. Ajaph; and the Lords Rockingham, Cowper, Haver-

Sham, Mobun, and Hallifax.

June the 6th, The Queen came to the House of Peen, and in a Speech (which fee in CHANDLER's Hift. Ann 11 Annæ, 1712, p. 316,) to both Houses, gave a Sketch of the Treaty just negotiated with France at Utrecht, for which, as foon as she had withdrawn, it being moved that Thanks be returned to her Majesty for the fame; the Earl of Wharton faid, 'That they had all the Reason in the Work to do it especially for that Part of her Majesty's Speech, wherein she was pleased to declare, That the assuring the Protestant Succession in the House of Hanover to these Kingdoms, was what she had nearest at Heart: But that her Majefty's Speech containing many other Particulars of the greatest Consequence and Importance, he was of Opinion the House would do well to take her Majesty's Speech into Confideration the next Day:' Which was readily agreed to. The Lords being met accordingly, on Saturday the 7th of Funt,

Motion for an Address of Thanks. E. of Wharton. ch as

ld be

ed to good

2 Vj.

With

Zeal very

ived

from.

very

tions

xes,

ren-

fion,

ring

ould

ther it,

lton,

the

idol-

aut

ver-

ers,

nno

for

arl

rk

ch,

22-

n-

10

W,

June, the Earl of Wharton proposed that the Letter from the Anno 17 Anne States-General to her Majesty, inserted in the Amfterdam French Gazette, might be read: But this was opposed; it being suggested, that the House ought not to take notice of His Motion for a Writing that carried no Authority with it. After this, the reading the Let-Lords took her Majesty's Speech into Consideration, which to the Queen. occasioned a warm Debate. Among the rest, the Duke of Marlborough represented, 'That the Measures entered into, Duke of Marland pursued in England for this Year past, were contrary to borough. her Majesty's Engagements with the Allies; did fully the Triumphs and Glories of her Reign, and would render the English Name odious to all other Nations.' Whereupon the Earl of Strafford faid, ' That some of the Allies would not Earl of Strafford, flew such Backwardness to a Peace as they had hitherto done, but for some Members of that illustrious Assembly, who maintained a fecret Correspondence with them, and endeavoured to persuade them to carry on the War, feeding them with Hopes that they should be supported by a strong Party here.' The Lord Cowper answered this Speech; and be- Lord Cowper. cause the Earl of Strafford had not expressed himself in all the Purity of the English Tongue, he took from thence Occafion to fay, ' That this noble Lord had been fo long Abroad, that he had almost forgot, not only the Language, but the Constitution of his own Country. That, according to our Laws, it could never be suggested as a Crime in the meanest Subject, much less in any Member of that august Assembly, to hold Correspondence with our Allies: Such Allies especially, whose Interest her Majesty had declared to be inseparable from her own, in her Speech at the opening of this Seffion: Whereas it would be a hard matter to justify, and reconcile, either to our own Laws, or the Laws of Honour and Justice, the Conduct of some Persons, in treating clandestinely with the common Enemy without the Participation of the Allies.

The Lords took afterwards into Confideration the Advan- Advantages oftages offered by France to Great Britain, particularly in fet-fer'd by France tling the Trade to Spain and to the West Indies, as it was in to Great Britain the Time of the late King of Spain, Charles II. On which taken into Con-Occasion the Earl of Godolphin faid, 'He did not pretend to Earl of Godolany great Knowledge in Trade; but that, during the Time phin, he had the Honour to be in the Administration of Affairs, he had observed, and he might easily make it out by the Books of the Custom-House, that the fingle Trade of Portugal brought to England in Times of War, double the Wealth of the Trade to Spain in Times of Peace: So that, whatever might be suggested to cast a Mist before the Eyes of the People, it was to be presumed, that the Trade to Spain would

1712.

ou Anne, fill yield less for the future, because the French had made themselves absolute Makers of it. After many other Specch es, a Motion was made, that an humble Address be present ed to her Majefty, to return her Majefty, the Thanks of this House, for her most gracious Speech, and for her extraordi. nary Condescension in communicating to her Parliament the Terms upon which a general Peace might be made, and to express the entire Satisfaction of this House, in her Majely's great Care for fecuring the Protestant Succession in the House of Hanover; and for her Majesty's steadily pursuing the true Interest of her own Kingdoms; and for endeavouring to procure to her Allies what is due to them by Treaties; and to alfure her Majesty, that this House did entirely rely on her Majefty's Wisdom to finish this great and good Work. Some Exceptions were made at the Words entirely rely; and the House was moved, that, at the Close of the foregoing Motion for an Address, these Words might be added, viz. And in order to that, to pray her Majesty to take such Measures in concert with her Allies, as might induce them to join with her Majesty in a mutual Guaranty; But after a De Earl of Notting- bate, in which the Earl of Nottingbam and the Lord Coupe made very remarkable Speeches, the Queftion being put, Whe ther these Words should be added, it was resolved in the Negative, by 81 Voices against 36. The Reasons of this great Majority were then said to be, 1st, because the Proxies, of which the Anti-Court Lords had more than the other Side, were not called for; and adly, because several Peers did not think fit, on that Occasion, to vote against the Court. However that be, on Tuelday the 10th of June, the Lords prefented their Address to the Queen, which, besidesthe ordinary Head, contained nothing but the Motion before-mentioned; and to which her Majesty was pleased to return this Aniwer.

ed Cowper.

The Queen's Answer to the de Addrefs.

Most heartily thank you for this Address: The Sa-" I tisfaction you express in what I have laid before you, " will contribute very much to remove the Difficulties which " have arisen in the Course of this Negotiation. And the " Confidence you place in me will enable me better to finish " this great Work, for the Advantage of my own People, " and the Safety and Interest of my Allies."

Several Lords protest against sejecting the Guarantee Clause,

It is observable that several Lords entered a Protest against the rejecting of the Guaranty Claufe, offered to be added at the Close of the Motion for an Address, and figned ther Reasons for it, which were soon after published in Print si follows:

at the

House

true pro-

to af-

d the

otion nd in

fures

De-

Negreat

, of Side,

low-

pre-

nary

ed;

Wer.

Sa.

you,

the

ple,

at at

1 35

We think it necessary to have the Security proposed of a Anno 12 Anne, general Guaranty, and the rather, because we conceive the Terms of Peace that are offered, have proceeded from a separate Negotiation, carried on by the Ministers with France, without any Communication thereof to the principal Allies, particularly the States-General, as they fay in the Letter to her Majesty, (whose Interest her Majesty was pleased to declare to this Parliament, she looked upon as inseparable from her own) and we conceive this Negotiation to be contrary to those Orders which her Majesty declared to this House, in answer to their Address, that she had given to her Plenipotentiaries at Utrecht, to concert with those of her Allies ; and the Refolution expressed in her Message. January the 17th, of a strict Union, in which the proposed to join with them, in order to obtain a good Peace, and to guaranty and support the same, as she had before declared in her Speech at the opening of this Session; that she would unite with them in the strictest Engagements for continuing the Alliance, in order to render the general Peace secure and lasting; and contrary to the 8th Article of the Grand Alliance, which expresly obliges all the Allies not to treat, unless jointly, and with the common Advice of the other

And we conceive that the Refusal of these Words proposed to be added, may be looked upon by the Allies, as if this House approved this Method of transacting with France, which may seem to them to tend to a separate Peace, of which her Majesty has declared her Dislike, and which was acknowledged in this House to be soolish and knavish, and would be of pernicious Consequence to this Kingdom, by preventing that Guaranty of Peace by the Allies, which is so absolutely necessary for their mutual Security, and leave us exposed to the Power of France, there being little Reason to expect their suture Help, after such a gross Breach of Trust.

And we further conceive, that such a separate Proceeding may create in the Allies so great a Distrust, as may tempt them to take the like Measures, and to give the French Opportunity to break that Union, which has been hitherto so useful to us, and formidable to them; any Appearance whereof must encourage France, either to delay the Conclusion of a Peace, or to impose upon the Allies in the surther Progress of the Treaty.

A perfect Union among the Allies feems to us to be more necessary in the present Case, because the Foundation upon which all the Offers of France, relating to Great Britain, as well as to the Allies, are built, viz. a Renunciation of the 1712.

Ccc
Duke

Anno re Anna, Duke of Anjou to that Kingdom, is, in our Opinion fo fallacious, that no reasonable Man, much less whole Nations. can ever look upon it as any Security. Experience may fufficiently convince us, how little we ought to rely upon the Renunciation of the House of Bourbon, and tho' the prefent Duke of Anjou should happen to think himself bound he his own Act, which his Grandfather did not, yet will his Descendants be at Liberty to say, that no Act of his could deprive them of their Birth-right, and especially when it is fuch a Right, as, in the Opinion of all Frenchmen, ought in. violably to be maintained, by the fundamental Conflitution of the Kingdom of France.

> And we humbly think it unfafe to depend upon this prin. cipal Part of the Treaty's executing itself, by supposing it will be the Interest of France to support it, since, on the contrary, it is manifest by the French Endeavours, ever fince the Pyrenean Treaty, to unite the Monarchies of France and Spain, they look upon that Union to be their greatest Interest, and the most effectual Means of establishing the

universal Monarchy in the House of Bourbon.

And if it were reasonable to imagine, that the two Crowns of France and Spain should remain in Listine Branches of the House of Bourbon; yet this is contrary to the Grand Alliance itself, which recites the Usurpation of the Spanish Monarchy by the French King, for the Duke of Anjon, as

the principal Cause of this War.

As to Port Mabon, Gibraltar, the Affiento, and the other Advantages to Britain proposed by France, (besides that they are all precarious, and in the Power of France and Spain to take from us when they please) considering the Situation of those Kingdoms, and the vast Wealth and Strength which will be left to them, we conceive it impolfible for any Man to look on those as a Compensation to Britain, in any Degree, for the leaving Spain and the India in the Possession of the House of Bourbon; which, besides other manifestly fatal Consequences, must be extremely prejudicial to our Woollen Manufacture, if it does not entirely ruin it.

As to the Demolition of Dunkirk, tho' we own it will be a great Safety to our Home-Trade, yet we have Reason to apprehend, by what was faid in the Debate, that it is not yet agreed to be demolished, without any Equivalent for it

to the French King's Satisfaction.

And in all the Particulars relating to the Allies, tho' they are not perfectly adjusted, yet by what does appear concerning them, the Allies are likely to be left in fuch a State of lafecurity, as is absolutely inconsistent with our own Safety.

The Rhine is proposed for a Barrier of the Empire, Anno 11 Anne, which leaves Strafburgh and Hunninghen in the Hands of the French; the former of which has always been looked upon

as the Key of the Empire.

n, fo

tions.

may

upon

nd by

ll his

could

it is

he in-

ution

prin-

ng it

n the

fince

rance

ateff

the

two

ches

rand

znish

, 25

ther

and

the

and

pof-

n to

dies

ides

ore-

ely

be

to

not

11

ev

ng

n-

The Proposals of France relating to the Barrier for the States General, not only deprive them of all the Places taken fince the Year 1709, but also of two or three Places more, included in the Demand made by the States in that Year. which will render their Barrier wholly insufficient, and confequently very much weaken the Security of Britain:

Portugal feems to be wholly abandoned to the Power of Spain, notwithstanding the great Advantages we have received during this War, by our Trade with that Kingdom,

which might still be extremely beneficial to us.

Upon the whole, there is fo very little and inconfiderable a Difference between these Offers of France, and those made at Utrecht, February the 11th. N. S. and figned Huxelles, (as appears to us upon our comparing them together) that both feem to be the Effect of a fecret and particular Negotiation with France; and this House having unanimously concurred, in expressing to her Majesty their utmost Resentment at those Terms offered to her Majesty and her Allies, by the Plenipotentiaries of France; and her Majesty having gracioully accepted that our Address, and rewarded that Duty and Zeal with her hearty Thanks, we cannot, in respect to her Majesty, or Justice to our Country, retract that Opinion, nor think the Terms now good for us or the Allies, or give any feeming Approbation of them, which then were received by this House, and all the Allies, with Scorn and Detestation.

For these Reasons, we are of Opinion, that the Offers of France are fallacious and enfnaring, no ways proportioned to the Advantages which her Majesty (from the great Successes which it has pleased God to bless her and her Allies, during the whole Course of this War) might justly expect for her own Kingdoms, and for them, very infufficient for preferving a Balance of Power in Europe, for the future Security of her Majesty and her Allies, tho' they should be never so exactly performed; and yet, even such as they are, there is no effectual Security offered for the Performance of them, which makes it absolutely necessary, as we conceive, that fuch Measures should be taken in concert with the Allies, as may induce them to join with her Majesty in a mutual Guaranty.

Somerset, Godolphin, Devonsbire, Berkley, W. Oxon, J. Ely, Haversham, Suffolk, W. Asaph, Bolton, Wharton, Marlborough, Dorchester, J. Bangor, Rutland, Nottingham, Ccc 2

Anno tt Annæ, 1712.

Carlifle, Bridgewater, Mobun, Townsbend, Cowper, Mon. tagu, Lincoln, Bedford.

ordered to be expunged out of the Books.

The Majority of Peers were fo offended at this Protest. that on Friday the 13th of June, the Question being put, The faid Protest Whether the faid Protest be expunged out of the Books of the House? It was carried in the Affirmative, by a Majority of 66 Voices against 31 present, and of 90 against 54. Proxies included. The next Day, upon a Complaint ma in the House of Lords, that both the said Protest, and the former concerning the Orders produced by the Duke of Ormond, were published in Print, a Committee was appointed to enquire who were the Printers and Publishers of the fame; but this Committee not being able to make any Difcovery in that Matter, the Lords applied themselves, by Address, to the Queen for that Purpose. Hereupon, on the 24th of June, the Queen in Council at Kenfington, the following Order was made:

Order of the Council for the discovering the Printer and Publisher of the foregoing Proteft.

N Address from the Lords spiritual and temporal in Parliament affembled, having been presented to her Majesty, that she would be graciously pleased to direct fuch Methods to be taken, as her Majesty should think most proper, in order to discover the Printers and Publishers of the Reasons for the Protestation entered in the Journal of that House the 21st of May last; and of one other malicious and scandalous Paper, entitled, The Protests of the Lords upon addressing her Majesty for her Speech; with the Names of the Lords. Price 2d. And of any Person or Persons directing the Printing thereof; which having been this Day read at the Board, her Majesty in Council taking the same into Confideration, was thereupon graciously pleased to order, as it is hereby ordered, that who foever shall discover to one of her Majesty's principal Secretaries of State, the Printer or Printers of the faid Pamphlets, or either of them, within three Months from the Date hereof, so as he or they shall be brought to Justice, shall have and receive the Reward of 50/. and likewise, whoever shall within the said three Months discover the Person or Persons that directed the Printing thereof, or of either of them, fo as he or they shall be brought to Justice, shall have and receive the Reward of 100/. and the Right Honourable the Lord High Treasurer is to cause the aforesaid Sums to be paid, upon the Conviction of the faid Persons accordingly."

EDWARD SOUTHWELL."

June the 21st, Her Majesty put an end to the Session with a Speech to both Houses; to be found in CHANDLER'S Hift. Anno 11 Annæ, 1712, Page 354.

The

The

10

2

was-

full,

fanc

how

to d

Maj

Rep

felf

g00

not

Blan

pofi

of

tors

ral

bee

oth

Sur

nei

lov

Co

ble

wa

Da

25

w

kr

The following Case was designed by the Duke of Marlbo-Anno 11 Anno 11

HEN I first heard of the Proceedings before the The Duke of Commissioners for taking the public Accompts, I Marlborough's was Abroad, and in the Queen's Service; and tho' the Account I gave you by Letter, was not, in their Opinions, so felf:

full, but they have thought themselves obliged, notwithflanding that, to lay the Matter before you, I think myself
however bound to own the Justice they have been pleased
to do me, in reporting that Letter also, together with her
Majesty's Letter.

From fensible the Nature of the Service to which the Report relates, might occasion many Mistakes, without any Imputation to the Gentlemen concerned in that Commission, and I am sure that those Gentlemen, every one of them, and every other Gentleman here, will be glad to find himfelf convinced, that as I have, in some measure, deserved the good Opinion of my Countrymen on former Occasions, so nothing will appear in this, which can draw upon me the

Blame of this House.

'The first Article in the Report is founded upon the Deposition of Sir Solomon de Medina, by which you are informed of a yearly Sum paid by him and his Predecessor, Contractors for Bread and Bread-Waggons, to myself. This Payment, in my Letter, I have called a Perquisite of the General or Commander in Chief in the Low Countries; and it has been constantly applied to one of the most important Parts of the Service there, I mean the procuring Intelligence, and

other Secret Service.

The Commissioners are pleased to observe, that these Sums cannot be esteemed legal Perquisites, because they do not find them claimed or received by any other English General in the Low Countries. But I must take Leave to affirm to this House, that this Perquisite or Payment has been allowed to the General, or Commander in Chief, in the Low Countries, both before and ever since the Revolution, to enable him to carry on such Secret Service. The like Allowance was made to Prince Waldeck, whilst he was General of the Dutch Army in Flanders; it was made during the last War as well as this; and for your further Satisfaction in this Matter, I am content to refer myself to Sir Solomon de Medina, who cannot but own, that when he made this Allowance, he knew it to be the constant Practice during the former Wars

^{*} See Chandler's Hiftory, Anno 10 Anna, 1711, Page 233.

them the fa

Itak the C

lic or

Repo

be fo

6

spon

at th

have

to al

whet

had :

at th

lowe and

fafel

chea

fible

the

rent

Bre

been

our

dur

nels

and

ma

upo

ma

ma

the

15 8

Po

Ar

the

ce

(a)

ha

th

as

fi

1712.

Anne II Anne, in the Low Countries, and particularly when Prince Waldet commanded there. And if it be a Circumstance worth your Notice, he must inform you also, that the Allowance of Waggons, which the Report takes Notice of, is usual like. wife; that he has allowed the like, or near the like Number to Count Tilly, tho' he was not Velt-Marschal, and that there is a proportionable Allowance of the same kind to other Officers. The Report may have observed very rightly, that, by the strictest Enquiry the Commissioners could make, they cannot find that any English General ever received this Perquifite. But I presume to say, the Reason is, that there was never any other English General besides myself, who was Commander in Chief in the Low Countries. I crave Leave then to fay, that this Observation in the Report, was occafioned thro' the Want of due Information in the Usage of the Army. In receiving this as an established and known Perquisite, I have followed and kept up that Usage which I found in the Army, when I first entered upon that Service; and upon this Ground alone, I hope that this House will not think that I was unwarranted in taking it.

But that no Doube may remain with you, I will state, as well as I can, what I have learnt, and during that time I have been in the Service, has been always understood to be the Ground, as well as the Design of this Allowance. The Contracts of Bread being of Necessity at the same Rates for the whole Army, and it being for the Security of the Service, those Contracts should be in the fewest Hands, the certain Gain upon so large a Sum as a Contract for the whole, or great Part of the Army, even at the lowest Prices, makes this yearly Allowance to have been thought not unreasonable from the Contractor. This being an Allowance generally arising from the Contracts that concern a Variety of Troops, under the same General, must naturally fall under the Direction, and come into the Hands of the Commander in Chief, as an Allowance to enable him to carry on such Defigns as could not be foreseen, but yet necessary to be put in Execution, and which chiefly depend upon Intelligence.

. I thought it more needful to give you this Account of the Nature and Defign of this Allowance, because I observe from the Report, that the Objection is to the Justice and Reasonableness of the Perquisite itself, without having Regard to the Application or Use for which it is intended.

But the Commissioners apprehend this not to be a justifiable Perquifite, because they say, the Public, or the Troops, necessarily suffer in Proportion to every such Perquisite.

If these Observations were well grounded, I should think them them good Reasons to put an end to the Allowance, and at Anno ir Anne, the same time to blame those who first introduced it: But I take upon me to affirm, that this neither is, nor can be the Case. I have never heard a Complaint, either of public or particular Injury from this Allowance; nor does the Report assign any Particular wherein it may be judged to be so.

This Allowance to the General, can have no Influence apon the Contract itself, which is actually made and figned at the Treasury, and the Price regulated by what the States have agreed to pay for the Bread for their Forces. I appeal to all the Officers who have ferved with me in Flanders, whether the Forces in her Majesty's Pay have not all along, had as much, and as good Bread, as those of the States, and at the same Prices; which every body will believe to be the lowest, that considers the frugal Occonomy of the States, and the small Pay of their Troops? And therefore, I may safely conclude, that if the English have had their Bread as cheap as the Dutch, they have had it as cheap as was posfible. Nor indeed can it be imagined to be otherwise; for the very Supposition of two different Prices, paid by different Troops in the same Army, for the same Quantity of Bread, would occasion a Mutiny.

'But this whole Affair has been fo regulated, and there has been fo little Occasion of Complaint, that it is well known our Army in Flanders has been duly supplied with Bread during the whole War, and has received it with an Exactness that will hardly be thought consistent with the Secrecy, and Suddenness of some of the Motions that have been

made.

our

ke-

ber

êre

her lat,

er-

Vas

Vas

ive

ca-

he

er-

I

e;

ill

in

is e

'The Report farther says, that the General is the sole Check upon the Contractor; and he is to take Care of the Performance of the Contract, and to judge of all Deductions to be made from, and Allowances to the Contractor. And from these Suggestions it infers, that, under these Circumstances, it is a Breach of Trust in him to receive the Perquisite.

'This Observation amounts to no more than suggesting a Possibility of Inconveniencies from an ancient Usage in the Army. And if by calling the General the sole Check upon the Contractor, is meant, that he is the Person who is to receive Complaints concerning the Execution of the Contract, and so far only is true, I affirm, that upon all Complaints I have given sull Redress; either by ordering other Bread, or the Value in Money, at the Choice of the Troops: For the Truth of which, I appeal to the Officers of the Army. And as to the General being to judge of all Deductions to be made from, and Allowances to the Contractor, I am entirely a

Stranger

Pa

OF

ci

m

fo

Se

ec

A

W

T

th

F

it

R

t

r

n

Ċ

ì

5

Anne II Anne, Stranger to any such Deductions and Allowances, of which

the General is supposed to be the Judge.

One Circumstance remains upon this Article, which I barely touch upon, to remove a Prejudice raised by the Re. port, from the Caution and Secrecy with which it is faid the Money has been received. This is supported only by an Allegation, that my Secretary, Mr. Cardonel, had declared upon Oath, that he never heard or knew of any fuch Perquifite, 'till lately; which it is supposed he ought to have done as Auditor of the Bread Account. But I take Leave to fay, If, That he never was Auditor of the Bread-Account, nor has any Thing to do with it. 2dly, Tho' it is faid in the Report, that he declared upon Oath, yet I cannot obtain or hear of any fuch Deposition; nor is it possible he could declare fo. In this Part of the Report, there must have happened some Mistake. For I presume Mr. Cardonel, who is a Member of this House, can't but declare that he knows of this Perquifite; tho' he might be ignorant of the fame, till Notice came to the Camp of what Sir Solomon de Medina had iworn.

As to the One per Cent. faid to be allowed to Mr. Sweet for prompt Payment, I do aver that I knew nothing of it. And the Sir Solomon de Medina has often complained to me of Mr. Sweet's Payments not being regular, I do not remem-

ber he ever mentioned the One per Cent.

Now, as to the second Article in the Report, allow me to observe to you, that it has arisen only from the Information I myself gave the Commissioners by my Letter to them: This Matter having relation to that Part of the Service to which the Sums in the former Article have been applied; that the Commissioners might have a true State of it, I chose to insert a short Account of it in my Letter to them.

'If I did this voluntarily, out of Duty to the Public, I hope I shall be thought to have given you Information upon a certain Belief, and I was altogether blameless in the Part I

have had in it.

'It will be necessary that I trouble the House with an Account of the Time and Occasion whence this Payment of Two and a half per Cent. by the Foreign Troops, commenced.

'During the last War, the Allowances by Parliament for the Contingencies of the Army, of which that of Secret Service is the principal, was, 50,000 l. per Ann. But this Allowance fell so far short of the Expence on that Head, that upon the Prospect of this War's breaking out, the late King assured him, that this last Part of the Service never cost him less than 70,000 l. per Ann. However, the Allowance of

Parliament for the whole contingent Service, during this Anno 11 Annas War, has been but 10000 l. per Annum, 3000 l. of which, or thereabouts, has generally gone for other Contingenunwilling to come to Parliament for more Money, on that Head of the Service, proposed this Allowance from the foreign Troops, as an Expedient to affift that Part of the Service, and commanded me to make the Proposition to them; which I did accordingly, and it was readily confented to. By this Means, a new Fund of about 1 5000 1. per Annum was provided for carrying on the Secret Service, without any Expence to the Public, or Grievance to the Troops from whom the Allowance was made; for, when the Public pays, those Troops are not at all affected, or one Farthing increased, in Consideration of this Deduction; nor is there in any Conventions for them any Weight laid upon it; the Hire of foreign Troops being governed by settled Rules and Treaties, and the Conventions of the States for them, being in the same Terms.

This Expedient being formed in the Manner I have shewn, her Majesty was pleased to approve it by her Warrant, which being understood as a Confirmation or an Agreement with the foreign Troops, not negotiated by, and, by consequence, not within the Care or Business of the Treasury, was counter-signed by the Secretary of State, whose Province

it belonged to, as the only proper Officer.

The true Defign of this Deduction being to supply the Secret Service, Gentlemen, I hope you will observe, that this, together with the Sum on the former Article of the Allowance by Parliament, when put together, doth fall short of the Allowance given by Parliament in the last War.

upon this Head.

hI

Re.

an

red

Jui-

one

ay,

10

le-

p-

of

d

e

I cannot suppose that I need to say how effential a Part of the Service this is, that no War can be conducted successfully, without early and good Intelligence, and that such Advices cannot be had but at a very great Expence. Nobody can be ignorant of this, that knows any thing of Secret Correspondence, or confiders the Numbers of Persons that must be employed in it, the great Hazard they undergo, the Variety of Places in which the Correspondence must be kept, and the constant Necessity there is of supporting and feeding this Service; not to mention some extraordinary Expences of a higher Nature, which ought only to be hinted at. And I affirm, that whatever Sums have been received on this Account, have been constantly employed in procuring Intelligence, in keeping Correspondence, and other Secret Service. If any Gentleman should doubt this, and imagine Ddd 1712.

Anno II Annæ, that this Expence could have been supported by the 10,000 /.

1712. per Annum, I desire them to consider, that the present War
in Flanders, from the beginning of it, has been an Offensive

in Flanders, from the beginning of it, has been an Offer War; the Campaigns early and long, the Variety of Actions have been very great, wherein so many Battles have been fought, Lines forced, and fo many strong Towns take with Trenches opened; but yet, during the last War, which was of another Kind, if Regard be had only to what was allowed by the Public, it is certain, that the Charge on this Head, in three Campaigns of that War, came to at least as much as all the ten Campaigns of this. And tho' the Merit of our Successes should be least of all attributed to the General, the many successful Actions, such as have surpessed our own Hopes, or the Apprehensions of the Enemy, in this present War in Flanders, to which our constant good Intelligence has greatly contributed, must convince every Gentleman, that such Advices have been obtained, and confequently that this Money has been rightly applied.

Having given this full and faithful Account of the Rife and Use of this Deduction, it must, I statter myself, appear to everybody that hears me, to have been a real Service, as well as saving of Money to the Public. And, tho' Honour is due to the Memory of the late King, who formed this Expedient, and to her Majesty, who approved of it, by her Warrant, I cannot, upon this Ground, apprehend any Imputation to myself, who have pursued this, so much to

the Advantage of my Country.

Before I take notice of the Remarks made by the Commissioners upon this Part of the Letter, I make one general Observation upon the Nature of this Deduction, which those Gentlemen, throughout their Report, call Public Money, and to be accounted for in the same Manner that other Public Money is usually accounted for. But the Notion, I apprehend, is wholly misapplied, as will appear by shortly flating the Fact itself. By the Treaties with the foreign Princes for the Hire of their Troops, the whole Subfidies flipulated for, are due, and the Receipt is by them given for the whole Money, which is a sufficient Voucher to discharge the Pay-Mafter in the Exchequer, and thereby the Account, as to the Public. This Deduction, fo made, does not properly iffue out of the Exchequer, but of the Money of the foreign Troops, for their Proportion of the Contingencies : And therefore I still apprehend, I speak properly, when in my Letter I affirm, that this Two and a half per Cent. does not belong to the public Accounts. But as this Deduction arises from the Agreement set on foot by his late Majesty, and confirmed by her Majesty, as it comes in here

the

R

th

D

0

C

n fo the foreign Troops, and being applied to a Part of the Public Service, Gentlemen may, if they think fit, in this Sense, call it Public Money, to be accounted for, in such a Manner as the Nature of the Sense admits, and as the Public Allowance to the same Service is accounted for.

'Having thus explained this Matter to you, I beg the Patience of the House to go on, and consider the particular

Remarks that have been made upon it.

' First, It has been objected, that her Majesty's Warrant has been kept dormant for nine Years, and the Deduction concealed from the Knowledge of the Parliament; but furely the Warrant cannot be faid to have been kept dormant, that has been lodged in the Hands of the Pay-Master General's Deputy in Holland, which was delivered to me out of the Office of the Secretary of State, figned by her Majesty, and counter figned by him, as all Warrants are, and which could not possibly be concealed from the Commanders of so many foreign Troops, nor indeed from the Troops themselves, which confift of fo many thousand Men, without whose Knowledge the Deduction could not have been made; and who, if it had been in the least uneasy to them, would no doubt have complained. In what Sense can this be called a dormant Warrant, which, from the Time it was figned, had been in the Hands of the proper Officer, and constantly and publicly put in Execution? The Report adds, that the Deduction has been concealed from the Parliament; for which, it is said, I have not affigned sufficient Reasons; but as there has been no Concealment, there could be no Need of affigning Reasons for it; much less was it necessary to lay Accounts of the Money before the Parliament, it being no Part of the Estimate for the Service, nor of any Influence on the Money to be given by Parliament: For the Subfidies to the foreign Troops are governed by previous Treaties, and therefore must have continued the same, tho' this Deduction had never been made: Besides, that the Exchequer is discharged of this Money, on the Receipt from the foreign Troops for the complete Subfidy. I have faid in my Letter, that this being a free Gift of the foreign Troops, does not properly relate to the Public Accounts: Upon which the Commissioners obferve, that this is inconfistent not only with the Words of the Warrant, which supposes an Agreement, but with that Part of my Letter which takes notice of this Stoppage, to be stipulated for by me as Ambassador; and from thence the Report concludes, that this Money is to be accounted for, as other Public Money is: But this Observation I take to be grounded upon the mistaken Notion of Public Money, which, as has Dddz been

Obje

this

than

with

king

Nic

has

Pay

tha

D

th

re

St

th

25

d

n b

t

Anno 11 Annæ, been already observed, being meant of Money granted by Parliament, and flanding in Charge in the Exchequer, ca never be applied to this Payment; which is a Contribution by the foreign Troops, out of their own Money, and not out of the Money of Great Britain. I might fay, that the this Deduction has been submitted to by the foreign Troops, during this War; yet it is fo far voluntary at this Day, that it depends barely upon a parole Stipulation, and when Um. brage shall be given, may, at any time, be receded from by This Report farther objects, that the 10,000l. given them. for Contingencies, is not confined to the British Troops, but was intended for the 40,000 Men, without Distinction. Now the contrary to this is evident; for, in the Estimate laid yearly before this House, it is plain that this is given for the British Troops only, and not for the rest of the 40,000 Men; and in the Estimate for the foreign Troops, the Article of Contingencies is omitted, for no other Reason, but because by this Warrant it was otherwise provided for; and therefore the Words of the Warrant are for defraying contingent Expences relating to them, which is plainly faid in Opposition to the contingent Money allowed for her Majesty's own Troops; and the like contingent Money has not only been allowed upon all other Parts of the Service, but it will appear, by examining what has been so allowed, that the Sums have exceeded in Proportion what has been ever allowed for the Army in Flanders: But the Report adds, that the 10,000l. has not been always thought exempt from Account, as appears from a Privy Seal bearing Date in March, 1706, wherein there is a Clause releasing me from a Sum, Part of the 10,000l. which the Report said, supposes it had otherwife been to be accounted for. When I say in my Letter, that the 10,000/, given by Parliament, is without Account; I dare fay, I cannot eafily be misunderstood: The Nature of the Thing not admitting of a particular Account, and the constant Practice never requiring any. In all the Accounts during the War, of that Money, my Receipt has been a sufficient Discharge; but that not being a regular Voucher for the Pay-Master, it has been thought necessary from time to time, to grant a Privy Seal, to enable the Pay-Master to pass that Part of his Account: And the' there be that Clause inferted in the Privy Seal, mentioned in the Report, of which, I affirm, I was unacquainted, I yet presume to say, that it was not only needless, but also contrary to all Practice, both before and fince; for the Truth of which, I appeal to the Pay-Master General, who will do me Justice in it, if any Gentleman can doubt it.

As to the Legality of the Warrant, which is the next Objection, Objection, the Commissioners having barely touched on this, Anno 20 1 as not duly counter-figned, I think it sufficient to say, that this Warrant, being principally intended for confirming an Agreement with the foreign Princes, was properly counterfigned by the Secretary of State for that Province, rather than by the Lord Treasurer, who could have nothing to do with it; however, I must believe, that an Error of this kind, if any body should think it so, which depends upon a Nicety, cannot be thought to affect the General, whose Part has only been to apply the Money as the Warrant directs.

But it is further remarked, that neither the Stoppage nor Payment of this Money have been regularly made. First, not the Stoppage, because the Warrant directs it should be flopped in the Hands of the Pay-Master, or his Deputy, But this Method does not appear, by the Pay-Master's Account, to have been purfued; but on the contrary, it is faid, that the Payments to the foreign Troops are always complete, and the Receipt taken in full, withoutany Notice of the Deduction. But yet I presume to say, the Stoppage has been regularly made, in pursuance to the Warrant: The Deputy Pay-Mafter is expresly authorized by the Warrant, to make that Stoppage; and it is of Necessity he should make it, who refides Abroad, where the Matter must be transacted, and the Stoppage applied. And it may not be amis to observe, that th Cases where Deductions are intended to be accounted for, as Public Money, the Warrant, which authorizes fuch Deductions, directs the same to be accounted for, and the Manner in which it is to be done : But where Deductions are made by virtue of Warrants that contain no fuch Directions in them, as in the present Instance, it hath been presumed, that there was no Intention such Deductions should be accounted for to the Public.

Next, as to the Payment, this is faid to be according to the Warrant, because neither Mr. Brydges, nor Mr. Cardonel. ever faw any Warrant from me, directing the Payment of it. I am not furprized, if the Gentlemen, in this Circumstance especially, might not be apprized of the Method of issuing Money for Secret Service, which could be only in my own Knowledge. But for their Information, and the Satisfaction of the House, I take the Liberty to acquaint you, that the Method of iffuing this, and the Public Allowance of 10,000/. for Secret Service, hath been exactly the same, and in this

I fend my Letters to the Deputy Pay Master, requiring the Payment of the Sum I have Occasion for, to myself; and for fuch Sums as are received from time to time, giving my Receipt. This is the Order of the General, which is meant

Aprio II Anna

ticable in this as well as in the Instance of the 10,000 L. contingent Money. Nor is there any Gentleman that confiders the Nature of Secret Service, but must see it is not possible, by the General's Warrant, to direct the Payment to the

Person, for whose Use it is received.

Pay-Master ought to have transmitted constant Accounts of this Deduction, to the Pay-Master General. If I could expect the House could expect from me an Account of a Circumstance, for which the Deputy Pay-Master alone is answerable, I should take the Liberty to say, that in my poor Opinion, if he has not transmitted such Accounts, it must be, because he is neither required nor authorized, by her Majesty's Warrant, to do so. He is only obliged to make the Stoppage, and siffue the Money upon my Orders, which he has done. Nor can I conceive it to be of any Use to the Public, or the Pay-Master General, to have received such Accounts; he not being chargeable with any such Stoppage; nor are

the Receipts for it any part of his Vouchers.

The last Objection is, that the Deduction being made for defraying contingent Expences to the foreign Troops; if the whole has been employed in Secret Correspondence, such a Disposition, not being authorized by the Warrant, is a Misapplication of Public Money. But though it is faid in the Warrant, to be for defraying contingent Expences relating to the Troops, the Reason it is so expressed, I take to be nothing elfe, but that in the Establishment for the Forces serving Abroad, the Word Contingencies hath always comprehended Secret Service, that having always been what was principally meant by that Article. And this is so evident, that if Secret Service be not included under the Word Contingencies, that important Part of the Service would have no Allowance from the Public for it, which I presume will not be thought expe-And therefore, though the Deduction be declared to be for Contingencies, no Stress can in Justice be laid upon that Word, to prove it was not defigned for Secret Service. And indeed, this is confessed immediately after, in the Report itself; which says, that the Article for Secret Service was always included in the 10,000 l. given for Contingencies. But if Secret Service be meant by, or included under Contingencies, in the Establishments for the British Troops, how can it be supposed, that the Word Contingencies in the Warrant for the Foreign Troops, is not to be understood in the same Manner?

'No body can doubt, but Contingencies, or contingent Expences mean the same in both; and therefore Secret Ser-

vice

cret

Ch

But

wh

the

for

wh

by

to,

11

of

is

fai

ha

Fa

th

tal

an

th

Y

di

ar

th

0

I

I

vice must be included in both, or neither : But I cannot bet- Anno 11 An ter explain this whole Matter, than by supposing, that Se- 1714. cret Service being an Affair that affects the whole Army, the Charge of it is to be laid in proportion upon the whole. But the Share of the British Troops is borne by the Public, while the Share of the Foreigners is raifed upon the Troops themselves by the Deduction, which is therefore said to be for defraying fuch contingent Expences as relate to them; that is, for their Share of the Expence of Secret Service, which being principally, and in the first place meant by Contingencies, there is no Opposition between the Ends directed by the Warrant, and those that the Money has been applied to, and consequently there has been no Misapplication of it: I have nothing to add upon this Article, but to take notice of a great Mistake, even in the second Computation which is made in the Report relating to this Deduction, for it is faid, that the whole Stoppages from the Troops in Flanders have amounted to the Sum of 177,959 1. 17 s. and three Farthings, when, in truth, computing them from May, 1702, the Time they were first made, they do not exceed 151,748 %. taking the Exchange at a Medium between eleven Guilders, and ten Guilders, ten Stivers: So that this Deduction, for the ten Years, comes to no more than 15,1741. 16 s: 2

'Upon the whole Matter, I cannot but hope this House will find Reason to be satisfied with this Part of my Conduct; and I think it no ill Service, that so necessary and important a Part of the War, and which has turned to fo good an Account, has been managed with fo little Expence to the Public: And I may, with the greatest Certainty, affure them, that all other Parts of the Service have been carried on with all the good Husbandry that was possible. And, I believe, I may venture to affirm, that I have, in the Article for Secret Services, faved the Government near four Times the Sum this Deduction amounts to. Which I must reckon so much Money saved to the Public.

A few Days after the Rifing of the Parliament, viz. July Mr. Secretary the 4th, Mr. Secretary St. John was created Vifcount Boling. St. John made broke; and about the same time Quesnoy was surrender'd to the Allies: But the 16th, the Duke of Ormond having before Affairs abroad. declared he had Orders not to fight, the Grand Confederacy was dissolved, Prince Eugene with the Imperialists, together with the Troops which had been till then in the British Pay, decamping to form the Siege of Landrecy, and his Grace, the the next Day, proclaiming a Suspension of Arms between Great Britain and France, which was likewise done in the French Camp by the Marshal Villars. After

nno 12 Anna.

After which the British Forces marching towards Dis kirk, were deny'd Entrance into Bouchain and Doney by the Dutch, and the 24th, N. S. the French attack'd the Earl of Albemarle, who was encamp'd with 13 Batallions and 30 Squadrons at Denain, took the Earl himself Prisoner, together with 3000 more, put as many to the Sword, and carried off 12 Pieces of Cannon, 37 Colours, 3 Standards, and a wast Quantity of Ammunition, &c. being the first fignal Advantage they had obtained in Flanders, fince the War began, and which they improved so well, that on the 31st Marchiennes, where was the Grand Magazine of the Allies, was fur. render'd into their Hands: Upon which Misfortune, Prince Eugene was obliged to raise the Siege of Landrecy, and retire towards Mons, the 2d of August: And Douay, Quesney, and Bouchain had the same Fate with Marchiennes.

November the 5th, King * Philip renounced the Crown of France in Form, as, about four Months after, the Dukes of Berry and Orleans did that of Spain in the Parliament of

December the 29th, The States General agreed to come into the Plan of Peace proposed by the Earl of Strafford, and the 31ft the Duke D'Aumont arrived here as Embaffidor from France; the Lord Viscount Bolingbroke having been sent to Paris in August.

March 30, 1713, The famous Treaty of Utrecht was fign'd by the Ministers of Great Britain, France, and all the other Allies except those of the Emperor, and Empire; and the

oth of April, after feveral Prorogations,

The THIRD SESSION of the Third Parliament of GREAT BRITAIN

TAS opened with a Speech from the Throne to both Houses, which fee in CHANDLER's History, Anno 12

Annæ, 1713, Page 335.

fort's Motion for an Address of Thanks. Debate thereon.

The Queen being retired from the House of Peers, and the Commons gone back to their own, the Duke of Beau-Duke of Beau- fort made a Motion for an Address of Thanks, which occafioned a small Debate, chiefly about the Expression of General Peace. Some Peers argued, that it could not be faid to be general, fince the Emperor, the Elector of Hanover, and other Princes and States of the Empire were not yet come into it: But they were answered, that it justly might be called general, fince the major Part of the Allies had figned After this a Motion was made, that in the Address of

Sept. 15, The Lord Lexington fet out from hence to receive the faid Renunciation.

Thanks a Clause might be inserted, That her Majesty would Anno 12 Anna, be pleased to lay before the House the Treaties of Peace and Commerce; but the Question being put thereupon, it was carried in the Negative by a Majority of 74. Voices against Motion for 43. The next Day, the Duke of Beaufort reported the Clause, Address of Thanks to the House, and the same being approverejected, ed, was on Saturday the 11th, about two in the Asternoon, presented to the Queen as follows:

Most gracious Sovereign,

the

of

30

ried

4 4

Ad-

an,

ar-

ce

nd

of of W E, your Majesty's most dutiful and loyal Subjects, Lords Address the Lords spiritual and temporal in Parliament as- of Thanks.

fembled, do, with the greatest Joy and Satisfaction, return our humble Thanks to your Majesty for your most gracious

Speech from the Throne, and for communicating to your Parliament that a Peace is concluded; by which we hope,

with the Bleffing of God, that your People will, in a few Years, recover themselves after so long and expensive a

War; and also do congratulate your Majesty upon the

'Success of your Endeavours for a general Peace.

We never had the least Doubt, but that your Majesty, who is the great Support and Ornament of the Protestant Religion, would continue to take, as you have always done, the wifest Measures for securing the Protestant-Succession, towards which nothing can be more necessary, than the persect Friendship there is between your Majesty and the House of Hanover.

And we humbly affure your Majesty, that, as you express your Dependance, next under God, upon the Duty and Affection of your People, we think ourselves bound by the strictest Ties of Religion, Loyalty, and Gratitude, to make all the dutiful Returns that can be paid by the most obedient Subjects to the most indulgent Sovereign.

To which her Majesty returned the following Answer:

My Lords,

"DO most heartily thank you for this Address; and The Queen's be affured, that I take a particular Satisfaction, that Answer. "you so kindly express the Considence you have in me."

The Endeavours of the Scotch Members in the House of * Commons for easing their Countrymen of Part of the Malt-Tax, having proved ineffectual, they had several private Meetings with the Scotch Pers sitting in The Scotch Parliament; and, laying asside all invidious Distinctions, Members of consulted together how to redress their Grievances both Houses On the 26th of May they deputed sour of their Number, hold several pri viz. the Duke of Argyle, the Earl of Marr, Mr. Lockhart, vate Meetings.

* See CHANDLER's History, Anno 12 Annæ, 1713, Page 12, 13.

the wh

for

Gr

wh Ar

chi wl

the

ed.

m

up

W

tie

29

or fic

or

th

th

0

ti

h

Their Deputation to the Queen,

The Queen's Answer.

Anno 12 Annæ, and Mr. Cockburn, who, by their Order, attended the Queen, and by Word of Mouth, humbly remonstrated to her Majesty, That their Countrymen bore with great Impatience the Violation of some Articles of the Act of U. nion, and that the laying fuch an insupportable Burden as the Malt-Tax upon them, was like to raise their Discontents to such a Height, as to prompt them to declare the Union dissolved.' To this unexpected verbal Remonstrance, the Queen answered, " This was a precipitate Resolution, and the wished they might not have Reason to repent it; but, however, she would endeavour to make all Things easy," The Scotch Members being met again the next Day, and their Deputies having made their Report of her Majesty's Answer, it was unanimously agreed, that, before they proceeded further, they should lay their Grievances before the House of Lords.

Accordingly, on Thursday the 28th of May, after the Lords had adjourned the Debate about the VIIIth and IXth Articles of the Treaty of Commerce, the Earl of Finlater made a Motion in the House of Peers, that some Day might be appointed to consider the State of the Nation; whereupon the Lords appointed Monday the 1st of June, when all the

Lords in Town were fummoned.

Earl of Finlater's Motion for a Day to fider the State of the Nation.

Which gives Rife to a Debate about the Union, which faid Earl.

Between one and two, the Debate began, opened by the Earl that made the Motion (Finlater,) who represented the Grievances of the Scotist Nation, which he reduced to four is opened by the Heads, viz '1. Their being deprived of a Privy-Council. 2. The Laws of England, in Cases of Treason, extended to Scotland. 3. The Scotch Peers being incapable of to Scotland. being made Peers of Great Britain, as it was adjudged and declared in the Case of the late Duke of Hamilton. And 4. The Scots being subjected to the Malt Tax, which would be the more unsupportable to them now, in that they never bore it during the War, and had Reason to reap and enjoy the Benefits of Peace: ' Concluding, ' That, fince the Union between the two Nations had not those good Effects as were expected and hoped from it, when it was made, he therefore moved, that Leave might be given to bring in a Bill for diffolving the faid Union, and fecuring the Protestant Succession in the House of Hanover, the Queen's Prerogative in both Kingdoms, and preserving an entire Unity and good Correspondence between the two Seconded by the Kingdoms.' This Motion was seconded by the Earl of Marr, and opposed by the Lord North and Grey, who, in a long and opposed by Speech, endeavoured to shew that the Complaints of the

Earl of Marr, Scots were groundless, and the dissolving of the Union imand Grey. practicable, not without some Reflections on the Poverty of to

eat U-

as

its

on

he

nd

It,

d

the Scotish Nation. He was answered by the Lord Eglington; Annot 2 Anna, who allowed the Scotiff Nation to be poor, and therewho allowed to pay the Malt-Tax. The Lord North and

Lord Eglington. Grey replied to him, infifting, That it was nothing but Lord North what was agreed by the Treaty of the Union; the XIVth and Grey. Article of which imported, that Scotland should not be charged with any Imposition on Malt during the War only, which now was at an End.' The Earl of Isla confessed Earl of Isla. there was such a Clause; but that the same Article imported, 'That feeing it could not be supposed, that the Parliament of Great Britain would ever lay any forts of Burdens upon the united Kingdom, but what they should find of Necessity, at that time, for the Preservation and Good of the Whole, and with due Regard to Circumstances, and Abilities of every Part of the United Kingdom, therefore it was agreed, that there should be no further Exemption infisted on for any Part of the United Kingdom, but that the Confideration of any Exemptions beyond what was already agreed on in this Treaty, should be left to the Determination of the Parliament of Great Britain'. He urged, ' that when this Treaty was made, the Scots concluded, the Parliament of Great Britain would never go about to lay any Imposition that they had Reason to believe was burdensome; and having fet forth their Inability to pay the Malt-Tax, concluded, for the Earl of Seafield's Motion.' Hereupon the Earl of Peterborough stood up, and made a long Speech, Earl of Peterbowherein he endeavoured to shew the Impossibility of dissolv-rough. ing the Union. He faid, among other things, 'That he had heard the Union compared to a Marriage; that, according to that Notion, fince it was made, it could not be broke, being made by the greatest Power upon Earth. That, tho' fometimes there happened a Difference between Man and Wife, yet it did not presently break the Marriage: So, in the like Manner, tho' England, who, in this national Marriage, must be supposed to be the Husband, might, in some Initances, have been unkind to the Lady, yet the ought not presently to sue for a Divorce, the rather because she had very much mended her Fortune by this Match: Adding. that the Union was a Contract, than which nothing could be more binding. To this the Lord Isla answered, 'That Earl of fila. if the Union had the same Sanction as Marriage, which was an Ordinance of God, he should be for observing it as religiously as that, but that he thought there was a great Difference.' To which the Earl of Peterborough replied, 'He Earl of Petercould not tell how it could be more folemn than it was, ex-borough, cept they expected it should have come down from Heaven, like the Ten Commandments. Animadverting, in the Con-Eee 2

tho

ord

fict

wa

the

it

w

th

Wa

fo

Pa

I

th

ir

li

V

thought

D. of Argyle.

Anno 12 Annæ, clusion, on the Scots, as a People that could never be fatis. fied; that they would have all the Advantages of being u. nited to England, but would pay nothing by their good Will: And that they had more Money from England than all their Estates amounted to in their own Country.' To him the Duke of Argyle replied, in a warm Speech, fay. ing, among other Things, ' That he was by fome reflected on as if he was difgusted and had changed Sides, but that he despised those Persons, as much as he undervalued their Judgments. That it was true he had a great Hand in making the Union: That the chief Reason that moved him to it was the fecuring the Protestant Succession; but that he was fatisfied that might be done as well now, if the Union were dissolved. That he spoke as a Peer of England, as well as of Scotland: That he believed in his Confcience, it was as much for the Interest of England as of Scotland to have it dissolved; and if it were not, he did not expect long to have either Property left in Scotland, or Liberty in England. He urged, that the Tax upon Malt in Scotland was as unequal (tho' the fame as in England) as taxing Land by the Acre, which would be very unjust, the Land being worth five or fix Pound per Acre, here about London, and not fo many Shillings in some Parts of the Country. That this was the Case between the Scotch and the English Malt; the latter being worth three or four Shillings the Bushel, the other not above one: So that if this Tax were collected in Scotland, it must be done by a Regiment of Dragoons.' Some other Scotish Peers faid, ' That the End of the Union was the cultivating an Amity and Friendship between the two Nations, but it was so far from having that Effect, that they were sure the Animosities between the two Nations, were much greater now than before the Union. That it might eafily be proved by many Instances, that some Persons agreed better when they were afunder, than when together; and for that Reason they believed, if the Union were dissolved again, the two Nations would be like to be better Friends.' On the other Lord Chief Juf. hand, the Lord Chief Juftice Trevor made a vehement Speech tice Trevor, and against it, as a Thing hardly to be done. He was backed the Lord Trea- by the Lord Treasurer, who said, ' That the Earl of Seafield's Motion was no less strange than unexpected; that the Union being made by two distinct Parliaments of both Kingdoms, he did not fee how it could be diffolved, now the two Nations were in different Circumstances from what they were in when it was made; because the Power that made it was no more in being; and nothing could make it void, but the Power that created it: Concluding, that if the Scots had any Grievance to complain of, there might be some other Method

furer Oxford.

0

d

d

t

thought of to redrefs them, without proceeding to that extra- Anno 12 Anna, ordinary Way of dissolving the Union, which had been made in so solemn a Manner, and brought about with so much Difficulty at last, after so many fruitless Attempts before.' was answered by the Earl of Nottingbam, who represented Earl of Notting. the Advantages of the Union, if the Views with which ham. it was made, had been steadily pursued. He added, 'That tho' the two Nations were now in other Circumstances than when the Union was made, yet the same Power that was in the two Parliaments when they were separated and distinct, was lodged in them, now they were consolidated, and therefore if they had Power to make it, they certainly had to diffolve it: And that he knew not any thing but what the Parliament could do, except destroying the present Constitution, which he owned they had no Power to do. That the Inconveniencies that had attended the Union could not be foreseen till the Trial was made: And since the Scots, who were the best Judges of the Affairs of their Kingdom, found that it did not answer the Ends proposed, he was for dissolving it.' The Earl of Sunderland faid to the same Purpose, Earl of Sun-That tho' he had a Hand in making the Union, yet if it derland. had not that good Effect which was expected from it, he was likewise for dissolving it.' The Lord Viscount Townshend Lord Viscount said, 'He was of the same Opinion; provided, nevertheless, Townshend. Means could be found to secure the Protestant Succession, and therefore defired to know what Security the Scats could give for that essential Point, before they proceeded any further." To this some of the Scotist Lords replied, ' That would appear when the Bill was brought in; that then it was a proper Time to shew what Security they could give; and therefore moved that the Question might be put immediately, Whether a Bill should be brought in or not?' The Earl of Earl of Notting-Nottingham defired, that another Day might be appointed to ham. confider further of a Matter of fuch Consequence, that the Lords might be better apprized of it. The Lord Hallifax Lord Hallifax. declared also for disfolving the Union, provided it could be made appear that the Succession could be secured; but yet defired that a further Day might be appointed to confider of so important a Matter. Two Scotists Lords, the Earls of Marr, and Loudoun, who were before for putting the Question, Earl of Marr. immediately declared themselves better satisfied by that E. of Loudoun. Lord's Reasons, and so were for putting it off to another There were feveral other Speeches made both by English and Scotish Lords, particularly by the Earls of Pau- Earl Paulett. lett, Scarborough, and Scarsdale: And it is observable, that Earl of Scarbowhen one of the Lords urged the Danger that England would rough on in from the Pretender, if the Union were diffolved, the E. of Scarsdale.

Lord

till

do

th

fh

A

25

tl

Anno 12 Annæ, Lord Townshend answered, " He could not tell what England Lord Viscount Townshend. Duke of Argyle.

had to fear from that or any other Incident; and that the Queen, Lords and Commons of England, if all in one Interest, need fear no Enemy in the World, but ought to despise the Pretender, and all his Abettors.' The Duke of Argyle hav. ing occasion to mention the Pretender, said, ' He knew not what Name to call him by, his Name being now as uncertain E. of Scarsdale. as his Parents:' But the Earl of Scarsdale called him the Prince, or, added he, the Pretender, which you will. Upon the whole Matter, the Court-Lords were all against dissolv. ing the Union; and faid, that the very moving such a Thing was dangerous, and might be of ill Consequence, and therefore defired that such an effectual Stop might be put to it, as that none might offer at any such thing again. On the other hand, the Scotist Lords said, that if the Union were not disfolved, their Country would be the most miserable under The Question being put on the Earl of Finlater's Heaven. Motion, the same was carried in the Negative by four Voices, there being 54 Lords present on each Side, and 17 Proxies for the Negative, and only 13 for the Affirmative. It is ob-Lord Treasurer. servable that the Lord Treasurer having, in the Course of this Debate, advanced, 'That though the Tax were laid, it might be afterwards remitted by the Crown, and not levied: The Earl of Sunderland faid, ' He wondered fuch Expressions as tended to establish a despotic, dispensing Power, and arbitrary Government, should come from that noble Lord.' To this the Treasurer answered, ' That his Family had never been for promoting and advising arbitrary Measures, as others had done; which the Earl of Sunderland taking to be a Reflection on his Eather, he not only vindicated him, but added, 'That the other Lord's Family was hardly known in those

Days.'

The next Day the Lords refumed the Confideration of the VIIIth and IXth Articles of the Treaty of Commerce, and heard some of the Merchants, who had been summon'd to attend their House; as likewise on the XIth and XIIth,

but came to no Resolution.

June the 5th, The Lords read a second Time the Malt-Bill, and the Question being put, that the same be referred to a Committee of the whole House, the same occasion'd a long Debate; but after many Speeches it was carried in the Affirmative, by 85 Voices against 83; that is, by 64 present and 21 Proxies, against 63 present and 20 Proxies. It was obferved that two Scotists Peers were absent without leaving their Proxies, which if they had, the Votes had been equal. Three Days after, the Lords in a Grand Committee confider'd of the said Bill, and, after a warm Debate, that lasted

The Question carried in the Negative.

E. of Sunderland.

The Malt-Bill committed and país'd.

till Six o'Clock in the Evening, it was carried that the Bill Anno 12 Annee, do país, by a Majority of 64 Voices against 56.

On which Occasion was enter'd the following Protest:

Diffentient'

Because, we apprehend, that the charging Scotland with Protest thereon. this Malt-Tax will be a Violation of the XIVth Article of the Union, by which it is expressly provided, that Scotland shall not be charged with any Malt-Tax, during this War: And it was not denied; for, indeed, it is undeniable, that Peace with Spain is not yet concluded, and by Construction of Law and Usage of Parliament, this Bill is to be reckoned as a Grant to the Crown, and a Charge upon the People from the first Day of this Succession, at which Time, even the Peace with France was not made.

2dly, Because a great Part of this Malt-Tax is for the fatisfying and making up the Deficiency of the Malt-Tax in the Year one thousand seven hundred and eleven, from which Scotland being entirely free, we conceive it unjust, even tho' the Peace were concluded, to make that Part of the united Kingdom pay any Part of that Tax, which was expresly given (as appears by the Preamble) for this present

adly, Because it is by the aforesaid XIVth Article expresly provided, that due Consideration shall be had of the Circumflances of Scotland, when any Imposition or Tax is laid on it; and we are fully perswaded that it is impossible for Scotland to bear so heavy a Tax, by which it will be liable to pay vastly more when the Peace shall be concluded, than it did during the War; whereas England has its Burdens greatly diminished.

Somerset, Marr, Northesk, Balmerino, Scarborough, Linlithgow, Orkney, Sunderland, Finlater, Isla, Blantyre, Greenwich, Kinnoul, Londsale, Eglintoun, Rosberrie, Loudoun, Kylfyth, Hume.

June the 29th, The Duke of Bolton took notice in the House Duke of Bolton. of Peers both of the Queen's * Message to the Commons about the Debts of the Civil Lists, and of the Resolution of the Commons thereupon, infinuating, That they were fomewhat extraordinary, the usual Way being for the Crown to ask Subsidies of both Houses, otherwise the House of Lords would become altogether useles: But tho' the Confideration of this Matter was put off to the next Day, yet the same was waved, upon Account of a more important Affair, viz. The Earl of E. of Wharton's Wharton then moved, 'That an humble Address may be moving the presented to the Queen, that she would be pleased to use her Pretender from most Lorrain.

^{*} See CHANDLER's History, Anno 12 Annæ, 1713, Page 12, 13.

1713-

Anno 12 Anna, most pressing Instances with the Duke of Lorrain, and with all the Princes and States in Amity and Correspondence with her Majesty, that they would not receive, or suffer to continue within any of their Dominions, the Pretender to the

Imperial Crown of these Realms.

Grey.

Several Members appearing surprized at this unexpected Motion, which was undoubtedly defigned to try the Inclina. tions and Affections of some Persons, there was a Paule for Lord North and a while : At last the Lord North and Grey broke Silence. and endeavoured to have that Motion laid afide, representing, that fuch an Address would shew a Distrust, either of the Queen, or the Ministers; that her Majesty would be very much puzzled what to do, in case the Princes and the States in Amity with her, should be unwilling to comply with her Instances, fince it would not be in her Power to compel them; concluding with this Question, Where they would have the Pretender refide, fince most, if not all the Powers in Europe, were in Amity with her Majesty? To this the Earl of Peterberough was faid to have answered, That fince he began his Studies in Paris, the fittest Place for him to improve himself was Rome. After some other warm Expres-E. of Wharton, fions between the Earl of Wharton and the Lord Treasurer, Lord Treasurer. it was unanimously resolved that such an Address should be presented to her Majesty. Accordingly, on the 2d of July the House of Lords attended her Majesty with the following Address :

Earl of Peterborough.

Most gracious Sovereign,

Address of the House of Lords " thereon.

VE, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, do take Leave humbly to return to your Majesty the Thanks of this House, for the great Care it appears to us your Majesty has, on all Occasions, taken to prevent ' the Pretender to your Crown from coming into any of your Majesty's Dominions: And we do humbly beseech your Majesty, that for the Safety of your Person and Goe vernment, the Security of the Protestant Succession in the House of Hanower, and for the Peace and Quiet of these your Kingdoms, your Majesty will be graciously pleased to use your most pressing Instances with the Duke of Lorrain, and with all Princes and States in Amity and Correspondence with your Majesty, that they will not receive, or sufe fer to continue within any of their Dominions the Pretender to the Imperial Crown of these Realms.

To which her Majesty was pleased to return the following Answer:

My Lords,

ith

ith

on-

the

ted

na.

for

ce, nt-

of

ry

es er

el

ld

rs

le

e

0

1-

e

" Take extreme kindly your Address, and the Thanks you give me for what I have done for establishing the The Queen's " Protestant Succession.

" I shall repeat my Instances to have that Person removed " according as you defire in this Address. And I promife " myfelf, you will concur with me, that if we could cure our " Animofities and Divisions at Home, it would be the most " effectual Method to secure the Protestant Succession."

A nno 12 Annas Anfwer.

The Lord Chancellor (*Harcourt) having the next Day Reported by the reported her Majelty's Answer to the House of Peers, the Lord Chan-Duke of Buckingham, Lord Prefident, faid, he never heard of cellor. any Instances that had yet been made to the Duke of Lorrain, ingham. for removing the Pretender out of his Dominions. If either of the two principal Ministers of State had been in the House, they might, in all probability, have better explained her Majefty's Answer; but they happened to be both at Dinner with the Duke D' Aumont, Ambassador extraordinary from his most Christian Majesty. Hereupon, the Earl of Sunderland made Earl of Sunder a Motion for a fecond Address; which was backed by the land's Motion Earl of Nottingham, and, notwithstanding some small Oppo- for a second Adfition, it was ordered by the Lords spiritual and temporal in dress against the Parliament affembled, 'That an humble Address be present-dered by the ed to her Majesty, to return the Thanks of this House to Lords to be preher Majesty, for her most gracious Answer to their Address; sented to the ' and for the Assurances her Majesty has been pleased to give Queen. us, of repeating her Instances for removing the Pretender; and to express our Surprize, that such Instances have not ' had their full Effect, notwithstanding the French King, and the King of Spain have shewed their Compliance to her Majesty's Desires on that Occasion; and to assure her Ma-' jesty, that this House will stand by her and support her, in whatever her Majesty shall judge proper for obtaining a Demand, which is so warranted by the Laws of Nations, ' and fo necessary for the Honour and Safety of her Majesty, and for the present and future Peace and Quiet of the People.' It was also ordered, that the said Address be presented to her Majesty by the Lords with white Staves; which was done accordingly: And on Monday the 6th of July, the Lord Steward acquainted the House, That the Lords with white Staves had presented to her Majesty the Address of this House of Friday last; and her Majesty was pleased to receive the same very graciously.

July the 16th, Her Majesty put a Period to the Session with a Speech to both Houses, which see in Chandler's F f f History,

So made April the 7th, 1713.

1713-14.

Anno 13 Annæ, History, Anno 12 Annæ, 1713, Page 56: And in August this Parliament was dissolved, and Writs were issued for the fummoning another.

6 t

. 1

6 3

Parliament diffolved.

Remarkables between the Seffions.

The Controversy concerning the Demolition of Dunkirk, the Continuance of the War against the Catalans, who had rejected the Terms procured for them by the * Freaty between Great Britain and Spain, the Surrender of Friburg to the French, and the opening a Negotiation for a Peace between the Emperor and France, at the Castle of Rastad, were the most remarkable Incidents which happened in the Recess.

CHARLES CHE CHES CHES CHES CHES CHES CHES The Fourth Parliament of GREAT BRITAIN

SSEMBLED at Westminster, February the 16th, and the Commons having chose their Speaker, adjourn'd to March the 2d; when her Majesty came to the House of Peers, and opened the Session with a Speech to be found in CHANDLER's Hiftory, Anno 12 Annæ, 1713, Page 58.

The Queen being retired, and the Commons gone back to their House, the Lords resolved to present an Address of Thanks to her Majesty, which being drawn up by a Committee appointed for that Purpose, and agreed to on the third of March, was the next Day presented to her Majery, as follows:

Most gracious Sovereign,

The Lords Addrefs of Thanks, 6

J E, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament ' affembled, beg Leave to approach your Royal Person, with ' the greatest Respect, to return the humble Thanks of this ' House to your Majesty, for your most gracious Speech from the Throne. We chearfully embrace this Opportunity of ' affuring your Majefly, that the Joy our Hearts are filled with, upon your Recovery from your late Indisposition, cannot sufficiently be expressed; and that our fervent Prayers to Almighty God shall never be wanting, that ' your Majesty's Reign may exceed in Number of Years, ' and in all manner of Happiness, that of the longest and ' most prosperous of any of your Royal Predecessors, as that which will best conduce to the Happiness and Satisfaction of the most dutiful Subjects, to the best of Queens.

It is with the greatest Pleasure, and the utmost Grati-'tude,

^{*} Concluded at Utrecht, July 13.

tude, that this House receives the Communication your Anno 13 Annæ, Majesty is pleased to give them, that the Ratifications of 1713-14. your Treaties of Peace and Commerce with Spain are ex-

changed, and that we are, by your Majesty's great Wifdom and Goodness, at last delivered from that consuming Land. War, the Burdens and ill Consequences whereof we are fenfible nothing can remove or prevent, but a right Improvement of the present Opportunity; and it shall be our Endeavour, as we are fatisfied it will be your

Majesty's, to unite our Differences, not by relaxing from the strictest Adherence to our Constitution in Church and State, but by observing the Laws ourselves, and to the utmost of our Power, enforcing a due Obedience to them

in others.

his

m-

rk.

ad -90

to e-

ld,

he

'And we do affure your Majesty, that this House will ' most heartily concur with your Majesty, in all proper Me. thods, to compleat the Settlement of Europe; and we will use our utmost Endeavours to discourage and discountenance 'all Attempts to weaken your Majesty's Authority, or to ' render the Possession of the Crown uneasy to you.

'We acknowledge, with Hearts full of Duty and Thank-'fulness, that great Care which your Majesty has taken, during the whole Course of your Reign, to secure our Religion and Liberties, and to transmit both safe to Po-

fterity.

It is with the utmost Detestation, that we reflect on the Proceedings of those Men, who, by spreading seditious ' Papers, and factious Rumours, have been able to fink ' Credit, and thereby to involve the Innocent in the ill 'Consequences of their Iniquity; and more particularly of those who have attained to that Height of Malice, as to 'infinuate, that the Protestant Succession in the House of ' Hanover, is in Danger under your Goverment.'

To which her Majesty returned the following Answer.

My Lords,

Return you most hearty Thanks for your very affection The Queen's ate Address. ate Address.

"You who are nearest the Throne, will, first of all my " Subjects, feel the evil Consequences of any Diminution of " the regal Dignity.

" It is a great Comfort to me, that I have your Affurance

of Support.

" Depend upon it, I will never give way to the least Attempt, either on the just Authority of the Crown, or

" on your Rights and Privileges."

Fff 2

Anno 13 Annæ, 1713-14.

Complaint in the House of Lords against a Libel, called, The public Spirit of the Whigs. The Passages complained of. On the 2d of March, the Earl of Wharton made a Complaint in the House of Lords against a scandalous Libel, entitled, The Public Spirit of the Whigs, set forth in their generous Encouragement of the Author of the Criss, with some Observations on the Seasonableness, Candor, Erudition and Stile of that Treatise. Printed for John Morphew, near Stationer's Hall, 1714. In which the Passage that gave most Offence to the Lords, is as follows:

'This Work, (meaning the Union of the two Kingdoms) he tells us, was unsuccessfully attempted by several of her Majesty's Predecessors; tho' I do not remember it was ever thought on by any, except King James I. and the late King William. I have read, indeed, that some small Overtures were made by the former of these Princes towards an Union between the two Kingdoms, but rejected with Indignation and Contempt by the English. And the Historian tells us, that how degenerate and corrupt soever the Court and Parliament then were, they would not give Ear to fo infamous a Propo-I do not find that any of the succeeding Princes, before the Revolution, ever refumed the Defign; because it was a Project for which there could not possibly be assigned the least Reason or Necessity: For I defy any Mortal to name one fingle Advantage that England could ever obtain from fuch an Union. But towards the End of the late King's Reign, upon Apprehension of the Want of Issue from him, or the Princess Anne, a Proposition for uniting both King. doms was begun, because Scotland had not settled their Crown upon the House of Hanover, but lest themselves at large, in hopes to make their Advantage: And it was thought highly dangerous to leave that Part of the Island, inhabited by a poor, sierce, northern People, at Liberty to put themselves under a different King. However, the Opposition to this Work was fo great, that it could not be overcome till some Time after her present Majesty came to the Crown; when, by the Weakness or Corruption of a certain Minister, fince dead, an Act of Parliament was obtained for the Scots, which gave them Leave to arm themselves, and so the Union became necessary; not for any actual Good it could possibly do us, but to avoid a probable Evil; and at the same time, fave an obnoxious Minister's Head, who was so wise, as to take the first Opportunity of procuring a general Pardon by Act of Parliament, because he could not with so much Decency or Safety defire a particular one for himself. These Facts are well enough known to the whole Kingdom; and I remember, discoursing above six Years ago with the most

cor

conf

mot

Net

Ear

of

beit

a Y

dar

the

fuc

the

ha

of

far

di

op

of

to

ar

ir

E

C

confiderable Person of the adverse Party, and a great Pro- Anno 13 Anne, moter of the Union, he frankly owned to me, that this 1713-14.

Necessity brought upon us by the wrong Management of the

Earl of Godolphin, was the only Cause of the Union.

'Therefore I am ready to grant two Points to the Author of the Crifis: 1ft, That the Union became necessary for the Cause above related; because it prevented the Island from being governed by two Kings, which England would never have suffered; and it might probably have cost us a War of a Year or two to reduce the Scots. 2dly, That it would be dangerous to break this Union, at least in this Juncture, while there is a Pretender Abroad, who might probably lay hold of such an Opportunity. And this made me wonder a little at the Spirit of Faction last Summer among some People, who having been the great Promoters of the Union, and several of them the principal Gainers by it, could yet proceed fo far, as to propose in the House of Lords, that it should be diffolved; while at the fame time, those Peers who had ever opposed it in the Beginning, were then for preserving it, upon the Reason I have just assigned, and which the Author

of the Crifis hath likewife taken notice of.

But when he tells us, the Englishman ought, in generofity, to be more particularly careful in preferving this Union, he argues like himself. The late Kingdom of Scotland, (faith he) had as numerous a Nobility as England, &c. . They had, indeed, and to that we owe one of the great and necessary Evils of the Union upon the Foot it now stands. Nobility is indeed fo numerous, that the whole Revenues of their Country would be hardly able to maintain them according to the Dignity of their Titles; and what is infinitely worse, they are never likely to be extinct, till the last Period of all Things, because the greatest Part of them descend to I imagine, a Person of Quality prevailed on Heirs general. to marry a Woman much his Inferior, and without a Groat to her Fortune, and her Friends arguing, she was as good as her Husband, because she brought him as numerous a Family of Relations and Servants, as she found in his House. Scotland in the Taxes is obliged to contribute one Penny for every forty Pence laid upon England; and the Representatives they fend to Parliament are about a Thirteenth: Every Scotish Peer has all the Privileges of an English one, except that of fitting in Parliament, and even Precedence before all of the same Title that shall be created for the time to come. The Penfions and Employment possessed by the Natives of that Country now among us, do amount to more than the whole Body of their Nobility ever spent at Home; and all

1713-14.

Anno 13 Annæ, the Money they raise upon the Public is hardly sufficient to defray their civil and military Lifts. I could point out some with great Titles, who affect to appear very vigorous for diffolving the Union, though their whole Revenues, before that Period, would have ill maintained a Welch Justice of the Peace; and have fince gathered more Money than ever any Scotchman, who had not travelled, could form an Idea of.'

The Publisher order'd into Cuftody.

And Mr. John Barber.

This Complaint being warmly espoused by the Majority of the House of Peers, the Lord High Treasurer protested he Lord Treasurer. knew nothing of that Pamphlet; exclaimed against the malicious Infinuations contained in it; and readily joined with the House in an Order for committing John Morphew, the Publisher, to the Custody of the Black-Rod. Mr. Morphew, upon this Examination, having declared, than an unknown Porter had brought to his House the Copies of the Pamphlet in question, from the House of John Barber, Printer of the Gazette, and of the Votes of the House of Commons; the faid John Barber was also ordered into the Custody of the Black-Rod; and both he and Morphew, were, on Friday, the 5th of March, severally examined at the Bar of the Lords Mr. Morphew made the former Declaration, and owned the publishing and felling of that Libel, but Mr. Barber said, he knew nothing of it; and insisted not to answer any Questions, the Answer to which might tend to accuse himself, or to corroborate the Accusation against him. They being withdrawn, a noble Peer faid, they had no-

thing to do either with the Publisher or Printer, but that it highly concerned the Honour of that august Assembly to find out the Villain, who was the Author of the false and scandalous Libel, in order to do the Scotist Nation Iustice: And thereupon moved, that in order to that Discovery, Barber might be again examined the next Day, together with his Journey-Men and Servants: The fame was readily agreed to; but on the 6th of March, the Earl of Marr, one of her Majesty's Principal Secretary of State, acquainted the House, that he had already order'd John Barber to be prosecuted, which put a sudden Stop to all farther Enquiries about that

Matter, in a parliamentary Way.

Three Days after, Barber and Morphew were, upon their humble Petition, enlarged from the Custody of the Black-Rod; and the same Day the Lords resolved upon an Address to the Queen about that Matter; which was reported and agreed to on the 11th of March, and on the 15th presented

to the Queen, as follows:

Earl of Marr.

Most gracious Sovereign,

Anno 13 Annæ, 1713-14.

7 E, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament Address of the 'affembled, beg Leave humbly to represent to your Lords to the Majesty, that we have begun our Endeavours to suppress Queen thereon. ' seditious Papers (which your Majesty was pleased to take Notice of in your most gracious Speech from the Throne) by applying ourselves to discover the Author, Printer, and Publisher of a Pamphlet, entitled, The Public Spirit of the 'Whigs, set forth in their generous Encouragement of the 'Author of the Criss, with some Observations on the Seafonableness, Candor, Erudition, and Style of that Trea-London, printed for John Morphew near Stationer's-Hall, 1714. Which we conceive to be a false, malicious and factious Libel, highly dishonourable and scandalous to your Subjects of Scotland, tending to the Destruction of the Constitution, and (by making false and unjust Reslections upon the Union, and the Steps and Motives to it) most injurious to your Majesty, who have been pleased often to declare from the Throne, that the Union of the wo Kingdoms is the peculiar Happiness of your Reign, ' in making a full Provision for the Peace and Quiet of your People, and the Security of our Religion, by fo firm an Establishment of the Protestant Succession throughout Great Britain: It appeared to us by the Confession of the said John Morphew at our Bar, that he published, sold, and dispersed that Libel; and, by the Examination of several Witnesses on Oath, that the same was printed by John Barber, a Printer, who, at the Time of the Printing the ' faid feditious Libel, was, and yet is, entrufted with printing the Gazette; but the faid John Barber, in his Examination, infilting not to answer any Questions, the Answer to which might tend to accuse himself, or to corroberate the Accusation against him, we have not as yet been able to discover the Author of the said Libel, or who brought the written Copy thereof to be printed. And therefore, that nothing may be wanting on our Parts, towards the ' discovering and punishing so great a Criminal, as we take the Author of the faid Libel to be, we do most humbly befeech your Majesty, that your Majesty will be graciously pleased to iffue your Royal Proclamation, with a Promise ' therein of such a Reward as your Majesty shall, in your Royal Wisdom, think fit, to any Person who shall dis-' cover and make due Proof against the Author or Authors of the faid Libel; as also your Majesty's most gracious Pardon to such Person or Persons as shall make such Dis-

Anno 13 Annæ, covery, of all Crimes and Mildemeanours committed in ' relation to the printing, publishing, and dispersing the faid 1713-14. Libel.

> To this Address the Queen was pleased to return this Answer.

My Lords,

The Queen's Answer.

Thank you for the Concern you shew for suppressing all feditious Libels.

"And have given Orders for a Proclamation according " as defired."

Proclamation to discover the Author.

Accordingly, the same Day, the Queen ordered a Procla. mation to be published, containing the Suggestions of the Lords Address, and promising a Reward of the Sum of 3001. for discovering the Author of a falle, malicious, and factious Libel, entitled, The Public Spirit of the Whigs, &c. Which the Lord High Treasurer was thereby directed to pay.

Debate on the State of the Nation. Earl of Wharham. Earl of Sunderland. Lord Cowper. Lord Hallifax.

On Wednesday, the 17th of March, the Lords took into Confideration the State of the Nation, and the Earls of Wharton, Nottingham and Sunderland, the Lords Cowper, Hallifax, and some others, having represented the Danger Earl of Notting- that threatened the Protestant Succession, in the Electoral House of Hanover, by Reason of the Pretender not being yet removed from Lorrain, and the ill Condition the Affairs of Europe were left in by the late Treaties of Peace, moved, that Addresses be presented to her Majesty, that the proper Officers might be directed to lay before the House, ' 1ft, An Account of what Steps had been taken for removing the Pretender from the Dominions of the Duke of Lorrain, pursuant to the Addresses of both Houses of last Parliament; and what Answers had been given to her Majesty, or any of her Ministers, by the Duke of Lorrain, or any of his Minitlers. 2dly, An Account of the Negotiations of Peace, what Measures had been taken to render the Peace universal, and what Obstructions her Majesty had met therein. 3dly, An Account what Inflances had been made for restoring to the Catalans their ancient Privileges, and all Letters relating 4thly, An Account of the Moneys granted by thereunto. Parliament fince the Year 1710, to carry on the War in Spain and Portugal.' Which Addresses were ordered to be presented to her Mejesty, without any Opposition.

The Lord Trea-After this the Lord High Treasurer moved for Leave to furer moves for bring in a Bill for the future Security of the Protestant Succession, by making it High Treason to bring any foreign Troops into the Kingdom: Upon which the Earl of Nottingham, apprehending some dangerous Drift in that Motion, represented, 'That such a Bill might be turned

into the Kingdom. Earl of Nottingham.

a Bill against

foreign Troops being brought

turned against the Guarantees of the Protestant Succession, Anno 13 Anna and so weaken that happy Settlement, for the Security of which, the faid Bill was pretended to be intended.' Hereupon the Lord Bolingbroke replyed, . That he doubted not, Ld Bolingbroke, but the noble Peer who made the Motion, meant only fuch foreign Troops, as might be brought into the Kingdom by the Pretender or his Adherents. The Lord Treasurer hav- Ld. Treasurer. ing declared this to be his Meaning, it was answered, That, in that Case, such a Bill was altogether unnecessary, fince fuch Troops were, ipfo facto, either open Enemies, if Foreigners, or Traitors and Rebels, if Natives. The Earl of Anglesea put an end to the Debate, with faying, ' That E. of Anglesea the Lord who made the Motion was not acquainted with the Methods of Proceeding in that House: For every Peer has the Privilege of bringing in what Bill he thinks fit; that the Lord-Treasurer's asking Leave for it, was but a Compliment to the House; and therefore, when he had brought in the faid Bill, it would be then a proper Time to consider of it. Hereupon the said Motion was dropped. His Motion The same Day a noble Lord reflected on the Bishop of Sa- dropp'd. rum's Preface to his Pafforal Care: But that Prelate offering to vindicate himself, no further Notice was taken of it.

Two Days after, the Lords refumed the Consideration of the State of the Nation, upon which there was a Debate, which lasted till five o'Clock in the Evening. Several Lords spoke again in Favour of the Catalans, and infifted, State of the Na-That the House ought strictly to examine how that poor tion farther de-People came to be abandoned, after they had been follicited, and drawn in to declare for the Emperor.' The Earl of Anglesea seeing the Ministry thus vigorously attack. E. of Anglesea. ed, endeavoured to ward off the Blows, by faying, 'That, for his own Part, he was one of the first that appeared against the late Ministers, because he was fully convinced of their Mal-Administration, Corruption, Avarice, and un-bounded Ambition. That he would, in like manner, be one of the first that should attack the present Ministers, if he thought them guilty of the same Faults; but, as he had observed that it was meerly out of Spleen and Envy, that fome Persons were for enquiring into the Conduct of Patriots, who had given fignal Proofs of their Zeal for the Public Good, he was of Opinion, that they ought to examine into the Conduct, both of the late and present Ministers, that so, by comparing one with the other, they might see which had committed less Errors.' However, the Lords in the Opposition pursued their Point, and in particular took notice of the Danger, both the Queen's Person, and the Protestant Succession were in from the great Number of out-

Ggg

1713-14.

0

Anno 13 Anna, lawed Jacobites, who were permitted to come over from beyond Sea: And complained of the Favour shewn to the Pretender's Friends, in granting Noli Profequi's to some Persons. who were under Profecution for writing against the Protestant Succession. They also animadverted upon the Debts of the Navy being much increased, tho' nothing had been done at Sea for two or three Years past: And the Court-Party hav. ing little or nothing to fay to these Particulars, it was moved and resolved, to address her Majesty, that she would be pleased to order the proper Officers to lay before the House, First, An Account of the Debts and State of the Navy. An Account of Noli Profequi's granted fince her Majefty's Accession to the Throne: And Thirdly, A List of Persons out-lawed, attainted, or that had borne Arms in the Service of her Majesty's, or the late King's Enemies, who had got Licences to return into Great Britain, or other her Majesty's Dominions, fince the Year 1688.' After this, upon a Metion for adjourning, the faid Opposition-Lords, who defigned to follow the Chace while the Scent lay hot, and vigoroufly to profecute the Enquires into the State of the Nation, proposed to adjourn only to the Monday following. Ministry being highly concerned in putting a Stop to those troublesome and ungrateful Dispositions, the Lord-Treasurer, represented, 'That the Solemnity of Easter's Festival approaching, the next Week, ought, according to the primitive Inflitution, and the constant Practice of the Church of England, to be fet apart for Works and Exercises of Piety; and therefore moved to adjourn to Wednesday the 31st of March.' Being feconded by the Lord Trever, the Earl of Wharton faid thereupon, 'God forbid he should oppose that noble Lord, who had made so pious and religious a Motion; but that he appealed to that venerable Bench (pointing to the Bishops) whether Humanity and Christian Charity did not require it at their Hands, not to lole one Moment of Time, in addresfing her Majesty in behalf of the distressed Catalans, who were reduced to such an Extremity, that the least Delay in procuring them Relief, might prove their Ruin for ever.' Hereupon, it was refolved, without Opposition, to present the faid Address, and then the Earl of Oxford's Motion, for adjourning to the 31st of March, was carried in the Affirmative, by 66 Voices against 43.

Ld. Treasurer.

Lord Trevor. E. of Wharton.

House adjourned.

Their Lordships being met again on the 31st of March, the Lords with white Staves acquainted the House, that the Queen had been pleased to order the Papers, for which they had addressed her Majesty, to be laid before them, but that it required some Time to transcribe the same: Upon which

the House adjourned to Friday the 2d of April. That Day, Anno 13 Anna, feveral Papers relating to the Catalans were read; after which the Earls of Wharton and Sunderland, the Lords Hallifax, Couper, and fome others, represented, that the Crown the Catalans. of Great Britain having drawn in the Catalans to declare for E. of Wharton. the House of Austria, and engaged to succour and support E. of Sunderthem, those Engagements ought to have been made good. land. To this the Lord Bolingbroke answered, That her Majesty Ld. Hallifax. had used all her Endeavours to procure to the Catalans the Ld. Bolingbroke, Enjoyment of their ancient Liberties and Privileges; but that, after all, the Engagements her Majesty was entered into, subfished no longer, than while King Charles was in Spain; but that Prince being advanced to the Imperial Dignity, and having himself abandoned the Catalans, her Majesty could do no more than to interpose her good Offices in their behalf; which she had not been wanting to do.' this it was replied, That God Almighty had put more effectual Means into her Majesty's Hands: And after some other Speeches, the Lord Cowper moved for an Address to her Lord Cowper. Majesty, importing, 'That her Majesty's Endeavours for preserving to the Catalans the full Enjoyment of their Liberties, having proved ineffectual, their Lordships made it their humble Request to her Majesty, that she would be pleased to continue her Interposition, in the most pressing manner, in their behalf.' None of the Peers opposed this Motion; only the Lord Chancellor, in order to justify all Ld. Chancellor. that had been done by the Ministry, said, ' Their Address would be more grateful to her Majesty, if the Word ineffectual were left out, and if they should thankfully acknowledge her Majesty's Endeavours in favour of the Catalans: Which was approved, and a Committee was appointed to draw up the faid Address accordingly.

The next Day the Address was read and agreed to; and in the Afternoon presented to her Majesty as follows:

E, your Majesty's most dutiful and loyal Subjects, Address to the the Lords spiritual and temporal in Parliament af- Queen thereon. ' fembled, having taken into Consideration, the several Papers your Majesty was most graciously pleased to order to be laid before this House, in Pursuance of our humble Address, of the 17th Day of March last, that your Majesty would be pleased to order an Account to be laid before this House, of what Endeavours had been used, that the Catalans might have the full Enjoyment of their ancient Liberties and Privileges; did with the utmost Thankfulness to your Majesty, and Satisfaction to ourselves, observe the repeated and earnest Endeavours of your Majesty, for preserving to the Catalans the full Enjoyment of all their Ggg 2

1714.

Anno 13 Anne, ' just and ancient Liberties; and that altho' it appears by the Treaty of Peace with Spain, that the King of Spain has hitherto not been induced to agree with your Majelly's Interpolition in their behalf, but infilts that they shall come under the Condition of his Subjects of Cafile, there is yet room for your Majesty's further Interposition, for securing to that People those Liberties, which cannot but be very valuable to them : We do therefore make it our most humble and earnest Request to your Majesty, that your Majesty would be graciously pleased to continue your Interposition in the most pressing manner, that the Catalans may have the full Enjoyment of their just and ancient Privileges continued to them.

Her Majesty's Answer was as follows:

My Lords.

Her Majesty's Answer.

Heartily thank you for this Address, and the Satisfaction you express in the Endeavours I have used for " fecuring the Catalans their just Liberties.

" At the Time I concluded my Peace with Spain, I re-" folved to continue my Interpolition, upon every proper Occasion, for obtaining those Liberties, and to prevent, if

of possible, the Misfortunes, to which that People are exposed " by the Conduct of those more nearly concerned to help " them."

This Answer (which however was not made public till the 6th of April) occasioned various Resections.

The same Day that the Lords presented this Address, their Lordships read several of the Papers that had been laid before them, in relation to the Treaties of Peace, and resolved to go upon the State of the Nation, on Monday the 5th of April.

Farther Debate Nation.

Accordingly, that Day, feveral Speeches were made on on the State of both Sides, in relation to the Treaties of Peace in general, and to the Protestant Succession in the House of Hanover, in particular. After which the Question was put, Whether that Succession was in Danger under her Majesty's Administration, which occasioned a warm Debate, which lasted from two in the Afternoon till almost nine o'Clock in the Evening. The Anti-Court Lords flruggled hard to have the Words under ber Majesty's Administration, left out of the Question, out of Respect to her Majesty, who, they said, was no way concerned in it; and if any thing was done amis, her Ministers alone were accountable for it: But the other Side, who had a mind to justify the Ministry, or, at least, to screen them under the Queen's Name, infisted, that the Words

should stand, and that the Question should be agreeable to Anno 13 Anno 14 Anno 15 Anno 15 Anno 15 Anno 15 Anno 15 Anno 16 Anno 17 Ann

against fixty four.

Besides several Speeches that were made on both Sides, the most remarkable Circumstance of this Day's Debate was, that his Grace the * Archbishop of York, and the Earl of Anglesea, spoke and voted with the opposite Lords; which added great Weight and Strength to that Side; the first drawing after him the whole Bench of Bishops, three only excepted: And the other being followed by the Earl of Abingdon, and six or seven other temporal Peers, who, like E. of Abingdon, his Lordship, had upon most Occasions voted with the Court-Lords; so that the Victory the latter gained, was owing either to the Scotish Peers, or to the late Creation.

After the Question was carried, as the Court-Lords would have it, the Lord Hallifax moved, 'That an Address be pre-Lord Hallifax's fented to her Majefty, that the would be pleased to renew her Motion for re-Instances, for the speedy removing the Pretender out of pretender from Lorrain; and that her Majesty would be pleased, in Con-Lorrain. junction with the States General, to enter into the Guaranty of the Protestant Succession in the House of Hanover; and also such other Princes, as her Majesty should think proper. His Lordship was seconded by the Earl of Wharton, who E. of Wharton] moved befides, 'That in the faid Address, her Majesty moves for setmight be defired to put out a Proclamation, promifing a Re- his Head. ward to any Person, who should apprehend the Pretender, dead or alive:' Which Motion was backed by his Grace the Duke of Bolton, who moved likewise, 'That the faid Re- Duke of Bolton, ward might be suitable to the Importance of that Service.' No Peer faid any thing in Opposition to these Motions; but it being late, some Members cried, Adjourn, Adjourn: But the other Side, calling for the Question, it was unanimously resolved, that the said Address should be presented; and a voted in order Committee was thereupon appointed to draw it up.

Before this memorable Debate began, the Lord North and Lord North and Grey moved, that all the Strangers that were in the House Grey. should withdraw; upon which the Earl of Wharton desired, E. of Wharton.] that they might be permitted to stay; and his Lordship was backed by the Duke of Argyle: But the noble Peer who Duke of Argyle. made the first Motion infisting upon it, all the Strangers were obliged to withdraw, except the Baron Schutz, Envoy Extraordinary from Hanover, whose standing behind the Throne,

with the Peers Sons, was winked at.

On

Sir William Dawes,

Anno 1; Annæ, On Thursday the 8th of April, upon the Report of the 1714. The Address reported. The Lord North and Grey's Speech against

Address before-mentioned, some Court Lords moved, to mis tigate the same: And among the rest the Lord North and Grey made a long Speech, wherein he endeavoured to fhew, the Barbarity of fetting a Reward upon any body's Head, which, he faid, was an encouraging of Murder and Affaffina-tion; and how repugnant fuch a Proceeding was to Christi. anity, the Law of Nature, and the Laws of all civilized Na. tions:' To which Purpose his Lordship quoted some Passages . of Anglants out of Grotius, Puffendorf, and other learned Civilians. He represented in particular, how inconsistent such a Proceeding was, with the Honour and Dignity of fo august an Affembly, in a Nation and Government famed for Lenity and Clemency; and, in the Conclusion, said, No Man either had more Respect and Affection for the illustrious House of Hanover, or would do more to ferve them, than himfelf: but that they must excuse him if he would not venture Damnation for them.' He was backed by the Lord Trever, who faid, 'That what that noble Peer had spoke, was sufficient to shew, how inconsistent such a Proceeding was to Christianity, and the Civil-Law; and therefore he would confine himself to our own Laws; and if he knew, or understood any thing of these, he was confident, they were as opposite to fuch Proceedings as the Civil-Law. That he knew, he did not speak there as a Lawyer or Judge, but as a Peer; but he was fully fatisfied of our Law discountenancing all fuch Proceedings; that if ever any fuch Case should come before him, as a Judge, he would think himself bound in Justice, Honour and Conscience, to condemn such an Action as Murder, and therefore he hoped the supreme Court of Judicature would not make a Precedent for encouraging Assaffination.' Little was said in Opposition to these two Speeches; And so it was moved, 1st, That the Reward should be, for apprehending and bringing the Pretender to Justice, in case he should land, or attempt to land, either in Great Britain or Ireland. 2dly, That her Majesty should issue her Royal Proclamation, whenever her Majesty, in her great Wildom, should judge it necessary. Upon a Division, these Amendments were carried by a Majority of ten Voices, some of the Lords, who the Monday before voted with the Anti-Courtiers, being for those Mitigations; and several Bishops thinking fit to give their tacit Consentto them, by their Absence from the House.

Lord Trevor.

The Address mitigated.

Lord Hallifax moves for an and Perfons out-lawed.

The same Day, upon a Motion made by the Lord Halmoves for an lifax, the Lords resolved to present another Address to the Romish Priefts, Queen, to desire her Majesty, 'That she would be pleased to iffue out her Royal Proclamation for the putting in Exe-

cution the Laws in Force, against all Jesuits, Popish Priests, Anno 13 Anna, and Bishops, except those belonging to foreign Ministers, as 1714. also against all such as bore Arms against the late King William and Queen Mary, or her present Majesty, &c.' Upon this Occasion, some severe Reslections were made against those Persons, who, being out-lawed, for adhering to the late King James and the Pretender, had the Affurance, and were encouraged, not only to come over, but even to appear here with a public Character: But the Confideration of that Affair was referred to the next Day, when the Lords refolved, ' If, That no Person, not included in the Articles Votes against of Limerick, and who had borne Arms in France and Spain, Persons outshall be capable of any Employment, Civil or Military, lawed, &c. adly, That no Person, who is a natural-born Subject of her Majesty, shall be capable of sustaining the Character of Public Minister from any foreign Potentate.' These Resolutions were undoubtedly made with an Eye to Sir Patrick Lawlefs, who have been the Pretender's Envoy at the Court of Madrid, had come over with a Credence from King Philip. But upon the Noise his being here made in both Houses of Parliament, he thought fit to go to Holland.

The fame Day, upon an occasional Reflection made some Days before against the Ministers, for remitting annually a Remittances to bout 4000 1. to the Clans of Scotland, as if that Sum were de- the Scotish Clan figned to keep in heart and discipline the Pretender's Friends, confidered. the Lord Viscount Townshend made a Motion for taking that Townshend. Affair into Confideration. Hereupon, the Duke of Argyle Duke of Argyle. made a Speech, importing, in Substance, 'That the Scotist's Highlanders, being for the most Part either rank Papists, or declared Jacobites, the giving them Pensions was, in effect, keeping up Popish Seminaries, and fomenting Rebellion." In Answer to which the Lord-Treasurer, and the Lord Vis- Ld. Tseasurer. count Bolingbroke, made it appear, 'That in this Particular, Lord Viscount they had but followed the Example of the late King William Bolingbroke. they had but followed the Example of the late King William, who, after he had reduced the Highlanders of Scotland, thought fit to allow yearly Penfions to the Chiefs or Heads of the Clans, in order to keep them quiet; and that if the present Ministry could be charged with any Mismanagement, on that Article, it was only for retrenching and faving Part of that Hush-Money.' Nothing being alledged against this Apology, the Lord North and Grey made a Motion for re- Lord North and turning the Lord-Treasurer the Thanks of the House, for Grey. his good Services; but the Lord Bolingbroke faid, he was persuaded, the Lord-Treasurer was contented with the Testimony of his own Conscience, and defired no further Satisfaction, than to have his Conduct approved by that august Affembly:

^{*} See CHANDLER' History, Anno 13 Annæ, 1714, Page 71, 72.

1714.

The Lord Treafurer's Conduct approved.

Anno 12 Anna, Assembly : Whereupon, it was unanimously resolved, that the House approved his Lordship's Conduct in that Par-

> As all weak and unsuccessful Attacks of a Minister, do generally fortify and fix his Power; so some Persons had Reafon to repent the pursuing a wrong Scent; and, on the other hand, one of the Lord Treasurer's Friends took that Opportunity to fay, with a triumphant and infulting Air, that hav. ing, by this Time, removed 'all Fears and Jealousies about Popery and the Pretender, he hoped the Enemies of the Ministry would now speedily produce all the Objections they had against their Conduct, and thereupon his Lordship moved, that a Day might be appointed for taking into Confideration the State of the Nation, in relation to the Treaties of Peace and Commerce.' He was feconded by the Earl of Clarendon, and so the House adjourned to Tuesday the 13th of April.

> The Day before, the House of Peers presented to the Queen an Address about the Pretender: Which was as fol-

lows:

The Lords Address against the Pretender.

E, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament asfembled, having a just and tender Concern for your Majesty and our Country, and being encouraged by that Zeal your Majesty has so often expressed from the Throne, for the Protestant Succession in the Illustrious House of Hanover, do now presume to renew our most humble Application to your Majesty, upon a Subject so agreeable to you as this, which is nearest your own Royal Heart; and do humbly beseech your Majesty, that whenever your Mae jesty, in your great Wildom, shall judge it necessary, you will be graciously pleased to issue your Royal Proclamation, promifing a Reward to any Person who shall apprehend and bring the Pretender to Justice, in case he shall Iand, or attempt to land, either in Great Britain or Ire-· land, suitable to the Importance of the Service, for the Safety of your Majesty's Person, and the Security of the Protestant Succession in the House of Hanover.

We also defire Leave to express our very great Concern, that your Majesty's Instances for removing the Pretender out of Lorrain have not yet had their Effect; and do humbly intreat your Majesty, that you will be gracioufly pleased to infift upon, and renew your Instances for the speedy removing the Pretender out of Lorrain: And likewise that your Majesty will be graciously pleased, in Conjunction with the States General, to desire the Emperor to enter into the Guaranty of the Protestant Succession in

the House of Hanover, and also all such other Princes as Anno 13 Annæ, your Majesty shall think proper.

To which her Majesty returned this Answer:

My Lords,

T would be a real strengthening to the Succession in Her Majesty's the House of Hanover, as well as a Support to my Answer.
Government, that an End were put to those groundless

"Government, that an End were put to those groundless "Fears and Jealousies, which have been so industriously promoted.

"I do not at this Time see any Occasion for such a Proclamation. Whenever I judge it to be necessary, I shall
give my Orders for having one issued.

" As to the other Particulars of this Address, I will give

" proper Directions therein."

This Answer raised the Hopes and Expectations of the Friends to the Chevalier de St. George; but the same Day, an Accident happened, which, as soon as known, cast them into a deeper Consternation than they were in before the Address against the Pretender was moved for in the House of Peers: The Matter of Fact was this:

On Monday the 12th of April, in the Afternoon, the Baron Schutz, Envoy extraordinary from the Elector of Han- Baron Schutz over, made a Visit to the Lord High Chancellor, and, among gives a Visit to other Civilities, acknowledged the Affection his Lordship the Lord Chanchad shewn on several Occasions, to the most Electoral House mands a Write of Hanover. The Lord Chancellor told him, ' He was for the Duke of extremely sensible of the Honour and Justice he did him by Cambridge. his Visit and Compliment: And defired him to affure the Elector his Master, of his entire Devotion to his Service; hoping his Electoral Highness gave no Credit to the false Reports that were industriously spread abroad, in order to give him Jealousies of her Majesty's Ministers.' The Baron answered, . He would not fail discharging so agreeable a Commission: But added, he had a Favour to ask of the Chancellor, in the Name of the Electoral Prince, viz. That his Lordship would be pleased to make out a Writ for his Highness's fitting in the House of Peers, as Duke of Cambridge.' The Lord Chancellor was fomewhat furprized at this unexpected Demand; but his Lordship told the Baron, 'That it was not usual to make out Writs for Peers that were out of the Kingdom. However, he would forthwith apply to her Majesty for Directions in this Case.' The Baron replied, ' He did not doubt, his Lordship knew and would perform the Duty of his Office; but as to the Difficulty of the Duke of Cambridge's being out of the Kingdom, he Hhh 1714.

Anno 13 Annæ, might affure him his Electoral Highness had resolved to come over very speedily; and, perhaps, might be landed before the Writ was made out.' At this the Baron taking his Leave, the Lord Chancellor defired him to remember, . He did not refuse his Demand, but only thought it proper to acquaint her Majesty with it, which he would do immediately.' To which the Baron said, 'He likewise desired his Lordship to remember, that he had applied himself to his Lordship for the Duke of Cambridge's Writ: 'And so they The Lord Chancellor having the fame Evening acquainted her Majesty, and her chief Ministers, with all that had passed between him and the Baron, a Council was immediately called, and having fat from nine o'Clock till after eleven, it was resolved, that the Lord Chancellor should make out a Writ for the Duke of Cambridge.

Which the Queen in Council resolved to grant.

This Transaction, which, the next Morning about Noon, was first whispered about in the Court of Requests, cast a fudden Damp on the Spirits of the avowed Partizans of the Chevalier de St. George, and even on some others, who would not be thought to have Affections that way. It was then a Problem, whether Baron Schutz had made that Demand, by express Orders from his Master, or only by the Advice of fuch Lords, and other Persons, as were supposed to have a more immediate Concern for the Interests of the most serene House of Hanover: But be that as it will, it was the same Day reported, by the Court-Agents, that her Majesty had taken in ill Part the Baron's applying himself to the Lord Chancellor, before he acquainted her Majesty with his Orders, in that manner; and that thereupon her Majesty had forbid him the Court, and her Ministers to have any Correspondence with him. On Sunday the 18th of April, in the Morning, the Master of the Ceremonies carried Baron Schutz a Message, to forbid him the Court. However, at forbid the Court, the same time, Mr. Bromley, Secretary of State, fent another Message to Monsieur Kreyenberg, the Elector of Hanover's Resident, to acquaint him, that he might come to Court as usual: And two Days after, one of her Majesty's Messengers was dispatched to Mr. Harley at the Court of Hanover, undoubtedly with Instructions suitable to the new Scene, which Baron Schutz had opened in England. On the other He fets out fud. hand, the Baron thought fit forthwith to return to Hanover,

out post for Harwich, with only one Servant; having left

in Monfieur Kreyenberg's Hands, a Letter to Mr. Secretary

Bromley, importing in Substance, 'That having had the Mis-

fortune to incur her Majesty's Displeasure, and being thereby rendered incapable of ferving his Mafter any longer in this

Court,

Baron Schutz

denly for Han- and so on Thursday the 20th of April, in the Night, he set, over.

His Letter to Mr. Secretary Broml y.

Court, he thought it his Duty to return Home; and fo took Anno 13 Anna his Leave of him.' The next Day Monsieur Kreyenberg delivered this Letter to Mr. Bromley; who told him, ' That either he, (Monsieur Kreyenberg) or any other Minister whom the Elector of Hanover would please to send over, would be well received by her Majesty.' This whole Affair, as may eafily be imagined, occasioned various Reasonings and Conjectures: And as the Baron Schutz's Declaration of the Duke of Cambridge's Intention suddenly to come over, stunned and alarmed the Chevalier's Friends, so did it wonderfully raise the Spirits of the Well-affected to the House of Hanover; and had a particular Influence on the public Funds, which thereupon role four or five per Cent.

The Lord Chancellor having, on the 13th of April, re- Debate on the ported to the House of Peers, the Queen's Answer to their Queen's Answer Lordships Address, about the Pretender, some Expressions in to the Lords it did not appear entirely fatisfactory; and thereupon it was Address. moved to present another Address to her Majesty, tacitly infinuating the Reasons and Grounds the Lords had for the first Address; a Form of an Order for such an Address was thereupon proposed, and a noble Duke having moved, that the Word industriously should be added, there arose a Debate, that lasted from two till six in the Asternoon: After a warm Dispute, the Court-Party carried their Point, though by the Majority of two Proxies only, the Voices in the House being equal, viz. 61 on each Side; and so the following Or-

ders were made.

April the 13th, Ordered, ' By the Lords spiritual and Orders thereon. ' temporal in Parliament affembled, that an humble Address be presented to her Majesty, to return her Majesty the Thanks of this House for her most gracious Answer to their Address; and to assure her Majesty, that this House will continue to consider of, and humbly to offer to her 'Majesty as well as to concur with her Majesty in all ' proper Measures for supporting her Majesty's Government, and for strengthening the Protestant Succession in the House of Hanover, as the only effectual Means to put an End to those Fears and Jealousies, which have been so universally and industriously spread throughout this Kingdom.

Ordered, 'That the said Address be presented to her Ma-'jesty by the Lords with White Staves.'

April the 16th, The Lord High Treasurer acquainted the House, that the Lords with White-Staves had (according to Order) presented to her Majesty the Address of this House Presented to the of Tuesday last, and that her Majesty was pleased to give Queen. the following most gracious Answer thereunto. Hhhz

Anno 13 Anna. 1714.

My Lords,

The Queen's Answer.

Thank you heartily for this Address: And take very kindly the Assurances you give me therein."

And thus ended the great Noise that was made in the Lords House about the Pretender.

Officers Bill committed.

Debate in the House of Lords

The Day before, the Lords read, a fecond time, the Bill from the Commons, for securing the Freedom of Parliaments, by limiting the Number of Officers in the House of Commons; and it was carried by a Majority of feven or eight Votes, that the faid Bill should be committed. a Motion was made for taking into Confideration the State of the Nation, in relation to the * Treaties of Peace and about the Trea- Commerce, and some Speeches were made on both Sides ties of Peace and thereupon, after which the Debate was adjourned to Friday the 16th of April: That Day, the Anti-Court Lords being apprehensive, that if any Debate arose about the Spanish Treaty, the other Party would propose an Address to the Queen, approving of the faid Treaty, they therefore agreed to fay nothing against the Treaty that might draw them into Lord North and a Debate. The Lord North and Grey stood up first, and said, that if any Lord had any Objection against the Spanish Treaty, he was ready to answer them : And so, in a challenging Manner, skirmished for some time. After he sat down, there was a Silence for a Quarter of an Hour; and then the Lord Lord Clarendon, Clarendon stood up, and faid, ' My Lords, fince no Objection

Grey.

Lord Cowper.

can be raifed against the Spanish Treaty, we should address her Majesty, to return her our most humble Thanks, for having, by a fafe, honourable, and advantageous Peace with Spain, delivered these Nations from a long, consuming Land-War; and to defire her Majesty, notwithstanding any Obstructions that may be thrown in her Way, to proceed to the Settlement of Europe, according to the Principles laid down in her Majesty's most gracious Speech.' To this the Lord Cowper answered; 'My Lords, this is the most barefaced Attempt that ever was made by this, or any other Ministry, to secure themselves, by endeavouring to get the Sanction of this House for themselves. My Lords, are not the Ministry themselves jealous that their Actions stand in need of the Sanction of this House? Else why this Endeavour at an Address to make their Act the Act of the House? The Lord that spoke first, acting like a Soldier, would, by skirmishing, have drawn on a general Engagement, but the Troops are too well disciplined to fall into an Ambuscade of

See Lord Bolingbroke's Account of these Treaties, Anno 13 Anna, 2914, Page 107 to 124,

his laying; but I cannot remove my Finger from the Origi- Anno 13 Anna. nal of our Misfortune, the Cessation of Arms. We were then told, that if a Blow had been struck it would have ruined the Peace. Would to God it had ruined this Peace!' To back this, the Lord Hallifax faid, 'What was last men-Lord Hallifax. tioned, my Lords, makes me rife into the highest Resentment of the vile Usage given my Lord Duke of Ormond; a Lord, for whom I have the most profound Respect. My Lord Ormond went over into Flunders with a true English Heart, which, my Lords, is the best in the World; with a Defire to do his Country all the Service his great Ability capacitated him to do. Therefore it must be inconceivable the horrible Anguish it must give his noble and generous Heart, to receive such shocking Orders, restraining the noble Ardor of the Soldiers, flushed with former Victories, and Hopes of still greater.' My Lords, added the Earl of Nottingham, I never knew the like Address to this ever Earl of Nottingoffered at, but once, in the Case of the Duke of Suffolk, ham. who, in Henry VIIth's Time, had made a Treaty, for which he thought it convenient to get the Sanction of this House by an Address. I say no more of the Man, because he came to an untimely End.' Hereupon the Bishop of Salisbury said, Bishop of Salis-' My Lords, I do not understand what Law or Reason can bury (Burnet.) be given to empower one Ally to difengage from his other Allies, unless in a proper Manner and Time, he acquaints them, he has done his Ultimus Conatus; and that to proceed further, would be Certa Pernicies: That we had not come to our Ultimus Conatus, is plain, fince in the Year of the Ceffation of Arms, and the Year following, wherein nothing was done, we made as great Efforts as the former, when we did fo many glorious Things; and, to proceed further, in all human Probability, it would have been Certa Pernicies to our then Enemy, the French.' The Bishop of Bishop of Lon-London answered, 'My Lords, at the Cessation of Arms, don (Robinson) our Case was the very Case, in point, which the Bishop of Sarum puts; for we had then come to our Ultimus Conatus, and, for ought we know, to proceed further, would have been Certa Pernicies.' Hereupon the Earl of Wharton re- E. of Wharton. plied, 'I did defign to have faid a great deal to day, but I flud it all anticipated by the Lords who have spoken before me; only I must say what I learn by sitting here, that the carrying this Vote, is the Ultimus Conatus of the Ministry, and that if they do not carry it, it will be to them Certa Pernicies: Good, my Lords, gratify my Curiofity, to let me see what Certa Pernicies will be.' Some other Anti-Court Lords maintained, 'That there was no absolute Necesfity of making a Peace, the Nation having given near as much

1714.

Anno 19 Annæ, much Money for these three Years past, as during any three Years of the War; and as for the pretended Advantages, gained by the Treaty with Spain, it was plain they were no more than what had been stipulated before by the Treaty of the Year 1667.' They also complained of the Method in which the Negotiations of Peace had been carried on, and of our giving up the Interests of the Emperor, and King of Portugal, as well as of the poor Catalans. After a warm Debate that lasted till about nine o'Clock in the Evening, it was refolved by a Majority of 82 Votes against 69, to pre-Thanks for the fent an Address to her Majesty, to acknowledge her Majesty's Goodness to her People, in delivering them by a safe, honourable, and advantageous Peace with France and Spain, from the Burden of a consuming Land War, unequally carried on, and become at last impracticable: And to intreat her Majesty, to pursue such Measures as she should judge necessary, for compleating the Settlement of Europe, on the Principles laid down in her Majesty's Speech.' An Address to that Purpose was the next Day drawn up, reported, agreed to, and fent down to the Commons, for their Concurrence.

An Address of faid Treaties voted.

Debate on the Schism-Bill. Lord Viscount Bolingbroke.

Lord Cowper.

June the 5th, the Lords in a full House, read the * Schism-Bill the first Time; on which Occasion the Lord Bolingbroke faid, 'It was a Bill of the last Importance, fince it concerned the Security of the Church of England, which is the best and firmest Support of the Monarchy, both which, all good Men, and, in particular that august Affembly, who derive their Luftre from, and are nearest the Throne, ought to have nost at Heart: And therefore his Lordship moved, that it should be maturely considered, and, in order thereto, that it might be read a second Time.' Hereupon the Lord Cowper faid, ' No Man was more ready than himself to do every thing that should be necessary to attain the seeming Intention of this Bill, viz. The preventing the Growth of Schism, and the further fecuring of the Church of England: But, that the enacting Part would be fo far from answering the Title of it, that, in his Opinion, it would have a quite contrary Effect, and prove equally pernicious to Church and State.' His Lordship enlarged on these two Heads, in a Discourse of near half an Hour; and among other Things represented, . That, instead of preventing Schisms, and enlarging the Pale of the Church, this Bill tended to introduce Ignorance, and its inseparable Attendants, Superstition and Irreligion. this purpose his Lordship took notice, that in many Country Towns, Reading, Writing, and Grammar-Schools, were chiefly supported by the Diffenters, not only for the Instructions

^{*} See the Progress of the Bill in the Commons, in CHANDLER's Hist. Anno 13 Annæ, 1714, Page 130, 131, 133, 135, 136, 137.

and Benefit of their own Children, but likewise of those of Anno 13 Annee, the poor Churchmen; fo that the suppressing of those Schools. would, in some Places, suppress the reading of the holy Scriptures.' On the other hand his Lordship observed, That this Bill struck at the antient Rights and Prerogative of the House of Peers, which, by the Constitution, is the supreme Court of Judicature, and the dernier Resort in all Caufes; whereas by this Bill, the Justices of the Peace were empowered finally to hear and determine the Offences against the fame: My Lords, (added he) I would rather enlarge than abridge the Power of Justices of the Peace, were it but to encourage Gentlemen to take upon them an Office fo troublefome, and, at the same time, so unprofitable, unless it be perhaps in the County of Middlefex: But, my Lords, I shall never confent to give up the Birth-rights, and antient Privileges of this august Assembly, of which I have the Honour to be a Member.'

The Earl of Wharton spoke afterwards, and the Sub- E. of Wharton stance of his Discourse was, 'That he was agreeably surprized to see, that some Persons were on a sudden become fo religious as to fet up for Patrons of the Church: But that he could not but wonder, that the Persons who had been educated in diffenting Academies, which he could name, should appear the most forward in suppressing them. That this would be but an indifferent Return for the Benefits the Public had received from those Schools, which had bred those great Men, who had made so glorious a Peace, and Treaties that execute themselves; who had obtained so great Advantages for our Commerce; and who had paid the Public Debts, without further Charge to the Nation: So that he could fee no Reason there was to suppress those Academies, unless it were an Apprehension, that they might still produce greater Genius's, that should drown the Merits and Abilities of those great Men. My Lords, continued he, to be serious, it is no less melancholy than surprizing, that, at a Time, when the Court of France profecutes the Defign they have long fince laid, to extirpate our holy Religion; when not only fecret Practices are used, to impose a Popish Pretender on these Realms, but Men are publicly enlisted for his Service: It is melancholy and furprizing, I fay, that at this very Time, a Bill should be brought it, which cannot but tend to divide Protestants, and consequently to weaken their Interests, and hasten their Ruin: But then the Wonder will cease, if we consider what Mad-Men were the Contrivers and Promoters of this Bill.' My Lord Wharton excepted also against the Word Schism, with which the Frontispiece of this Bill was fet off; and faid, It was somewhat strange, they

n

d

e f

y

f

e

d 0

y

1714,

Anno 13 Annæ, should call Schism in England, what is the established Rellgion in Scotland; and, therefore, if the Lords who represented the Nobility of that Part of Great Britain, were for the Bill, he hoped, that in order to be even with us, and confiftent with themselves, they would move for the bringing in another Bill to prevent the Growth of Schism in their Country.' He faid also upon another Occasion, for his Lordship spoke more than once, 'That both in this Bill, and in the Speeches of those who declared for it, several Laws were recited and alledged; but that there was a Law that had not yet been mentioned: I expected, (added he,) that venerable Bench, turning to the Bishops, would have put us in mind of it; but fince they are pleased to be filent in this Debate, I will myfelf tell them, that it is the Law of the Gospel, to do unto others, as we would be done unto.'

E. of Abingdon.

The Earls of Abingdon and Anglesea spoke afterwards for E. of Anglesea. the Bill, and the latter said, among other things, ' That the Diffenters were equally dangerous both to Church and State; that they were irreconcileable Enemies to the Established Church; which they had sufficiently manifested in the late King James Ild's Reign, when, in order to obtain a Toleration, they joined themselves with the Papists; and that they had rendered themselves unworthy of the Indulgence the Church of England granted them at the Revolution, by endeavouring to engross the Education of Youth; for which purpose they had set up Schools and Academies in most Cities and Towns of the Kingdom, to the great Detriment of the Univerfities, and Danger of the established Church.'

Earl of Hallifax. Townshend.

The Lord Hallifax spoke on the other side, and among Lord Viscount other things faid, ' That the very bringing in of this Bill was injurious to the Queen; and he could not believe her Majesty would ever give her Royal Affent to such a Law, after the folemn Declaration she had made from the Throne, that she would inviolably maintain the Toleration, which this Bill visibly struck at. He added, that her Majesty made it the Glory of her Reign, to follow the Steps of Queen Elizabeth, who had not only entertained and protected the reformed Walloons, who took Sanctuary in her Dominions, from the Spanish Inquisition, but had likewise allowed them the public Exercise of their Religion, and caused a Clause in their Favour to be inferted in the Act of Uniformity. That thereby that wife and glorious Queen had vastly increased the Wealth of her Realms, the Walloons having fettled here the Woollen Manufactures, which are the best Branch of the national Trade. That the Protection and Encouragement, the late King William and Queen Mary, and her present Majesty had given to the French Refugees, had proved no les advanadvantageous to Great-Britain. And therefore it would be Anno 12 Anna, a Piece of Barbarity to make an Act, which should debar many French Protestants of means of subsisting, either by keeping public Schools, or teaching in private Families; especially considering their late hard Usage, the Government not having, for above three Years past, paid them any Part of the sisteen thousand Pounds per Annum, allowed by Parliament in the Civil-List, towards the Maintenance of their Ministers, and Poor.' His Lordship concluded with taking notice of the satal Consequences of persecuting the Dissenters in King Charles I's Reign, which kindled a furious and unnatural Civil War; and ended in the total Overthrow of Church and State, and in the King's Parricide.

The Lord Viscount Townshend spoke on the same Side, Lord Viscount and among other Arguments represented the ill Effects Townshend, of Persecution in general: He said, to that Purpose, that he had lived a long time in Holland; and had observed, that the Wealth and Strength of that great and powerful Commonwealth lies in the Number of its Inhabitants: But that he was persuaded, that if the States should cause the Schools of any one Sect tolerated in the United Provinces, to be shut up, they would be soon as thin of People, as Sweden or Spain,

whereas they now fwarm with Inhabitants.

The Lord North and Grey, who spoke for the Bill, main- Lord North tained the general Affertion of his Party, viz. That the and Grey. Church was in Danger from the Growth of Schismatics. The Earl of Nottingham faid thereupon, ' He owned he had Earl of Notformerly been of Opinion, that the Occasional Conformity of tingham. Dissenters was dangerous to the Established Church; and therefore he ever promoted the Bill to prevent it: But that the Church having now that Security, he believed her fafe and out of Danger; and therefore he thought himself, in Conscience, obliged to oppose so barbarous a Law as this, which tended to deprive Parents of their natural Right of educating their own Children. He added, he had observed, both from History and his own Experience, that all the Perfecutions that had been railed in England against Schismatics, originally proceeded from, and tended to favour Popery." His Lordship likewise excepted against that Part of the Bill which enacts, that any Person who should keep any public or private School, or instruct any Youth as Tutor, should have a Licence of the respective Archbishop or Bishop of the Place, &c. ! My Lords (faid he) I have many Children; and I know not whether God Almighty will vouchfafe to let me live to give them the Education I could wish they had: Therefore, my Lords, I own I tremble when I think, that a certain Divine, who is hardly suspected of being a 1714.

Annors Annæ, Christian, is in a fair way of being a Bishop, and may on Day give Licences to those, who shall be entrusted with the Instruction of Youth.'

Lord Treasurer.

Some other Lords made Speeches for and against the Bill: But the Lord High Treasurer contented himself with saying, That he had not yet confidered of it: But when he had, he would vote according as it should appear to him, to be either for the Good or Detriment of his Country : And therefore he was for reading the Bill a fecond Time: Which was agreed to, without dividing, and put off to the Monday following.

Petition of the Dissenters, to be heard by their Council rejected. Earl Paulett. Lord Foley. Lord Mansel.

After this, the Diffenters presented a Petition, praying, that they might be heard by their Council against the Bill; but the same was rejected by a Majority of 72 Votes against 66: It was observed, that, on this Occasion, the Earl of Paulett, the Lord Foley, the Lord Mansel, and some other Friends of the Lord Treasurer, voted with the Anti-Court Lords, for the allowing the faid Petition; and that the Lord Treasurer himself went out of the House, that he might not be obliged to declare on either Side, which strengthened their Opinion, who thought this Bill to be levelled against his Lordship.

The Bill read a committed.

On Monday the 7th of June, the Lords read the faid Bill fecond Time and a fecond time, and referred it to a Committee of the whole House, the Wednesday following; after which their Lordships took into Consideration, the Case of the Dutch and A Clause in fa- French Protestant Churches above-mentioned (which had been presented the Saturday before) and after a small Debate, French Church- it was carried, without dividing, that a Clause should be inserted in the Bill, in Favour of the said Churches.

vour of the es ordered. The Lord Committee of the whole House, make feveral the Bill. B. of London.

On the 9th of June, their Lordships in a Committee of the whole House, of which his Grace the Lord Archbishop of York was chosen Chairman, took the faid Bill into Con-Amendments to sideration, and examined the same Paragraph by Paragraph, from One in the Afternoon, till Eight in the Evening. Lord Bishop of London, who was one of the first that spoke in this Day's Debate, faid, 'That the Diffenters had made this Bill necessary, by their Endeavours to propagate their Schism, and to draw the Children of Church men to their Schools and Academies.' To which the Lord Hallifax answered, ' That what they did, was with the Knowledge and Confent of the Parents, who, in many Places, had not sufficient Means to educate their own Children; and his Lordship took from thence Occasion to move, That since this Bill was occasioned, as was suggested, by the Dissenters endeavouring to engross the Education of the Youth of both Persuasions, they might be allowed Schools to instruct their own Children.' Which Motion being formed into a Question,

Lord Hallifax.

was debated for near three Hours. 'The Lords Cowper and Anno 13 Anna. Hallifax, the Earl of Sunderland, and some other Peers, made several Speeches for the Affirmative. But the Lord Viscount Bolingbroke, the Earl of Anglesea, the Duke of Lord Cowper. Bucks, the Earl of Abingdon, and the Lord Chancellor, in- Earl of Sunderfifted on the Negative, which was, at last, carried by 62 land. Votes against 48. After this, it was moved, that the Dif. Lord Viscount fenters might, at least, be suffered to have School Mistresses, Bolingbroke. to teach their Children to read, which, after a Debate of E. of Abingdon. about an Hour, was carried, without dividing : As was also Duke of Bucks. a Clause, 'That this Act should not extend to any Person Lord Chanwho should instruct Youth in Reading, Writing, Arithmetic, cellor. or any Part of Mathematical Learning only, fo far as fuch Mathematical Learning relates to Navigation, or any Mechanical Art only.' Then their Lordships examined that Part of the Bill, whereby the Conviction of Offenders against this Act was left to the Justices of the Peace; and, after a warm Dispute, it was carried by a Majority of 59 Votes against 54, that the Conviction should be in the ordinary Course of Justice, viz. upon an Information, Presentment, or Indictment, in any of her Majesty's Courts of Record at Westminster, or at the Assizes, or before Justices of Oyer and Terminer. The Court-Party finding, by this last Division, that they lost considerable Ground, and being apprehensive, that other Amendments, which would render the Bill altogether useless, might be carried, moved, that the Chairman should leave the Chair, in order to adjourn; but the' the contrary Party, at first, opposed it, yet, after some Debate, upon the Penalties to be inflicted on the Offenders, both House ad-Parties being equally tired, the House adjourned to the next journed.

Accordingly, on Thursday the 10th of June, the Lords The Debate rein a Committee of the whole House, resumed the Debate newed. about the Penalties; and fixed the same to three Months Imprisonment; after which it was moved, and agreed, That Persons aggrieved might appeal from ecclesiastical Censures. as in Cases of ordinary Jurisdiction. A Clause was afterwards Tutors in the proposed, and carried to exempt from the Penalties of this Families of Act, any Tutor who shall be employed by any Nobleman, Peers exempt. or Noblewoman, to teach in their Families, provided fuch Tutor do, in every Respect, qualify himself according to this Act, except only in that of taking a Licence from the Bishop. There was no Division upon these Questions, but the Debate lasted till fix in the Evening.

The next Day, their Lordships, still in a grand Commit Earl of Angletee, considered further of the Bill to prevent the Growth of sea's Motion for Schism, &c. And the Earl of Anglesea moved, that a Clause to ex-I i i z might Ireland,

Carried in the Affirmative.

Anno 13 Anna, might be inserted in it, to extend this Act to Ireland: Which, after some Debate, was carried in the Affirmative, by the Majority of one Voice only; after which it was ordered, that the Amendments made to the Bill should be reported to the House the Monday following. Accordingly,

Reported by the on the 14th of June, the Archbishop of York made the said Abp. of York. Report; and several severe Speeches were made against the Clause, to extend this Bill to Ireland; particularly by the Opposed by the Duke of Shrewsbury, Lord Lieutenant of that Kingdom, who Duke of Shrews- being just returned from thence, took, that critical Day, his bury. Seat in the House: But the Question being put, it was carried by 57 Votes against 51, that the said Clause should stand, and ordered that the Bill, with the other Amendments which

were appproved, should be engrossed. The next Day, the faid engrossed Bill was read the third time, and after a small The Bill passed. Debate, it was carried by 77 Votes against 72, that the Bill do país. This done, the Lords fent a Message to the Commons, that they had agreed to the faid Bill with Amendments, to which they defired the Concurrence of that House.

On which Occasion was entered the following Protest:

Diffentient'

Protest thereon.

We cannot apprehend (as the Bill recites) that great Danger may ensue from the Dissenters, to the Church and State. Because, 1. By Law no Diffenter is capable of any Station

which can be supposed to render him dangerous.

2. And fince the several Sects of Dissenters differ from each other as much as they do from the Established Church, they can never form of themselves a National Church; nor have they any Temptation to fet up any one Sect among them: For in that Case, all that the other Sects can expect, is only a Toleration, which they already enjoy by the Indulgence of the State; and therefore, it is their Interest to support the Established Church against any other Sect that would attempt to destroy it.

II. If, nevertheless, the Dissenters were dangerous, Severity is not so proper and effectual a Method to reduce them to the Church, as a charitable Indulgence, as is manifest by Experience, there having been more Diffenters reconciled to the Church fince the Act of Toleration, than in all the Time fince the Act of Uniformity, to the Time of the faid Act of Toleration, and there is fcarce one confiderable Family in England in Communion with the Diffenters: Severity may make them Hypocrites, but not Converts.

III. If Severity could be supposed ever to be of Use, yet this is not a proper Time for it, while we are threatened with much greater Dangers to our Church and Nation,

against

against which the Protestant Dissenters have joined, and are Anno 13 Anna still willing to join with us in our Desence; and therefore we should not drive them from us; by enforcing the Laws against them, in a Matter which, of all others, must most sensibly grieve them, viz. the Education of their Children; which reduces them to a Necessity either of breeding them in a way they do not approve, or of leaving them without Instruction.

IV. This must be the more grievous to the Dissenters, because it was little expected from the Members of the Established Church, after so favourable an Indulgence as the Act of Toleration, and the repeated Declarations and Professions from the Throne, and former Parliaments, against all Profecution, which is the peculiar Badge of the Roman Church, which avows and practises this Doctrine; and yet this has not been retaliated even upon the Papists, for all the Laws made against them have been the Essects and just Punishment of Treasons, from time to time committed against the State: But it is not pretended that this Bill is designed as a Punishment of any Crime which the Protestant-Dissenters have been guilty of against the Civil Government, or that they are disasfected to the Protestant Succession, as by Law esta-

blished; for in this their Zeal is very conspicuous.

V. In all the Instances of making Laws, or of a rigid Execution of the Laws against Dissenters, it is very remarkable, that the Defign was to weaken the Church, and to drive them into one common Interest with the Papists, and to join them in Measures tending to the Destruction of it. This was the Method suggested by Popish Councils, to prepare them for the two successive Declarations in the Time of King Charles II. and the following one issued out by King James II. to ruin all our civil and religious Rights : And we cannot think that the Arts and Contrivances of the Papists to subvert our Church, are proper Means to preserve it, especially at a Time when we are in more Danger of Popery than ever, by the Designs of the Pretender, supported by the mighty Power of the French King, who is engaged to extripate our Religion, and by great Numbers in this Kingdom, who are professedly in his Interests.

VI. But if the Diffenters should not be provoked by this Severity, to concur in the Destruction of their Country and the Protestant Religion, yet we may justly fear they may be driven by this Bill from England, to the great Prejudice of our Manufactures, for, as we gained them by the Persecution Abroad, so we may lose them by the like Proceed-

ings at Home.

Laftly,

Anno 13 Annæ, 1714.

Laftly, The Miseries we apprehend here, are greatly enhanced by extending this Bill to Ireland, where the Confequences of it may be fatal; for fince the Number of Papills in that Kingdom far exceeds the Protestants of all Denominations together, and that the Diffenters are to be treated as Enemies, or at least, as Persons dangerous to that Church and State, who have always, in all Times, joined, and still would join, with the Members of that Church, in their common Enemy of their Religion; and, fince the Army there is very much reduced, the Protestants, thus unnecessarily divided, feem to us to be exposed to the Danger of another Massacre, and the Protestant Religion in Danger of being extirpated.

And we may farther fear that the Scots in Britain, whose national Church is Presbyterian, will not so heartily and zealously join with us in our Defence, when they see those of the same Nation, same Blood, and same Religion, so hard-

ly treated by us.

And this will fill be more grievous to the Protestant Diffenters in Ireland, because whilst the Popish Priests are regiftered, and fo indulged by Law, as that they exercise their Religion without Molestation, that the Laws are by this Bill enforced against them.

Somerfet, Dorchester, Scarborough, Nottingham, Haversham, Hallifax, W. Lincoln, Dorfet and Middlefex, Sunderland, Bolton, Graston, Derby, Carlisle, Foley, Greenwich, 7. Ely, T. Wharton, Cornwallis, Torrington, Dewonshire, Lincoln, Somers, Montagu, Radnor, W. Asaph, Townshend, Orford, Ro.kingham, Schomberg and Lempster, J. Bangor, De Longueville, J. Landaff, Cowper.

Barl of Nottingham's Motion for an Address of Thanks for the Queen's Proclamation Pretender. Lord Hallifax. Earl of Whar-

June the 24th, The Earl of Nottingham made a Motion for an Address of Thanks to her Majesty, for the Proclamation against the Pretender, &c. and was seconded by my Lord Hallifax. The Earl of Wharton, who likewise backed the Motion, holding the Queen's Proclamation in his Hand, for removing the did most pathetically lament her Majesty's owning that her Endeavours to remove the Pretender from Lorrain had been ineffectual. 'Unhappy Princess (said he) how much her Condition is altered! Will Posterity believe that so great a Queen, who had reduced the exorbitant Power of France, given a King to Spain, and whose very Ministers had made the Emperor and the States General to tremble, should yet want Power to make so petty, so inconsiderable a Prince, as the Duke of Lorrain, comply with her just Defire of his removing out of his Dominions the Pretender to her Crown!

None

None of the Peers spoke against the Earl of Nottingham's Anno 13 Anne, Motion, so that the same was carried, Nemine Contradicente, and the Lords Address being immediately drawn up, and agreed upon, was, the next Day, presented to her Majesty, as follows:

Most gracious Sovereign,

E, your Majesty's most dutiful and loyal Subjects, The Lordships the Lords spiritual and temporal in Parliament as. Address to the sembled, in a just Sense and Acknowledgment of your Ma-Queen thereon.

' jesty's Goodneis, return our most humble Thanks for the Proclamation which your Majesty, at the Request of this 'House, has been graciously pleased to issue, for apprehending the Pretender, in case he should land, or attempt to

land, in any of your Majesty's Dominions.

And fince your Majesty's Instances for removing the Pretender from Lorrain, have hitherto been inessectual, we take this Occasion to repeat our humble Request and Advice to your Majesty, to endeavour, in the most proper and speediest Manner, not only to renew the Alliances your Majesty had with the Princes of Europe, but also to invite them, and particularly the Emperor and the King of Prussia, into the Guaranty of the Protestant Succession as by Law established, in the most serene House of Brunswick, and to desire them to join with your Majesty, in pressing the Duke of Lorrain, not to suffer the Pretender to remain in any Part of his Dominions.

And fince the Papilts and Nonjurors are so insolent, as not only to support the Pretender's Claim to your Royal Crown, by their Writings and Discourses, but also traiterously to enlist Men into his Service, and send them to France; we most humbly beseech your Majesty to issue out your Royal Proclamation, promising a Reward to all such Persons as shall discover to any of your Magistrates, and cause to be apprehended, any Person who hath already listed any Person, or hath been listed in Great Britain or Ireland, into the Service of the Pretender, or of France, or

that shall carry any such Persons abroad.

And we do further pray your Majesty to give your Orders to all your Majesty's Officers and Magistrates, to put the Laws in Execution against the Papists and Nonjurors, by taking from them their Horses and Arms, and confining them to their usual Habitations, in such Manner as by Law is directed: And that your Majesty will be pleased to require an exact Account of their Proceedings therein, to be transmitted by them respectively, to your Majesty in Council, and to direct the same to be laid before this House at their next Meeting.'

ano 13 Anna,

Her Majesty's Answer was as follows :

3714.

My Lords,

The Queen's Answer.

Thank you kindly for this Address. And I am glad you are pleased with what I have done for the Protes-" tant Succession.

"You may be affured I shall continue to do whatever I " judge necessary for the securing our Religion, the Liberty " of my People, and for putting an end to the vain Hopes of the Pretender."

Address of Thanks voted. On the 28th of June, it was ordered by the Lords spiritual and temporal in Parliament assembled, that an humble Address be presented to her Majesty, to return the Thanks of this House to her Majesty, for her most gracious Answer to their Lordships Address of Thursday last; and that the fame be prefented to her Majesty by the Lords, with white Staves.

Lord Viscount Bolingbroke one to enlift in Service.

Lord Hallifax.

The faid Bill ordered in.

Lord Hallifax. Lord Vifcount Townshend. Lord Cowper. Lord Somers. E. of Wharton.

The Lord Viscount Bolingbroke, who, on the 24th of June, came into the House of Peers after their Lordships had voted moves for a Bill the Address against the Pretender, appeared somewhat surto make it High prized at that Resolution, and said, that there was a more Treason for any effectual Way to secure the Succession in the House of Hanthe Pretender's over. Some Members expressing thereupon their Defires, that he would propose it to the House, his Lordship moved, that a Bill be brought in to make it High-Treason for any Person to lift, or to be lifted into the Pretender's Service : My Lord Hallifax represented thereupon, 'That, tho' such a Bill was altogether needless, both the Pretender and all his Adherents, and Abettors, being already attainted of High-Treason: However, he should be glad such a Bill were brought in; because, with some Alterations, it might be made a very good one. Hereupon the Bill was brought in, read the first time, and, upon the Lord Hallifax's Motion, ordered to be read a fecond time, the next Day, in a full House. This was done accordingly, on the 26th of June; and the House of Peers immediately resolved themfelves into a Committee of the whole House upon the said Bill, and chose the Lord Bolingbroke Chairman. The Lords Hallifax, Townshend, Couper, Somers, and Wharton, who spoke most in this Committee, made it their chief Bufiness to shew, "That the Pretender was inconsiderable of himself; and not to be feared, but so far forth'as he was countenanced and protected by the French King, whose Interest and constant Design was to impose him upon these Realms. And therefore they moved, and it was agreed, that the Title of the Bill should be, to prevent the listing her Majesty's Subjects to serve as Soldiers, without her Majesty's License; and

nd that it should be High-Treason to list or be listed to Annors Anne. erve any foreign Prince, State or Potentate, without a Licence under the Sign-Manual of her Majesty, her Heirs or Successors. Moreover, the following Proviso was moved and agreed to, viz. 'That no Licence shall be effectual to exempt any Person from the Penalties of this Act, who shall lift or cause to be lifted in the Service of the French King, until after the faid French King shall have disbanded, broke, and dismissed all the Regiments, Troops, or Companies of Soldiers, which he has or may have in his Service, confifting of the natural-born Subjects of the Crown of Great Britain: This Act to continue in force for three Years. The Amendments made to this Bill were reported, and agreed to by the House, on Monday the 28th of June, and the next Day, the Bill was fent to the Commons, who gave it their Concerrence without any Amendments.

On the last Day of June, and first of July, the Lord's Debate about caused several Papers, relating to the Trade in Spain and the Spanish the West-Indies to be read ; and the next Day, their Lord- Trade. ships took that Affair into their Consideration. The Earl Earl of Nottingof Nottingham, who opened that important Matter, made ham. it plainly appear, that, confidering the Discouragements to which that Trade was subjected by the Explanations of the third, fifth, and eighth Articles of the Treaty of Navigation and Commerce between Great Britain and Spain, which Explanations were made at Madrid, after figning of the faid Treaty at Utrecht, it was impossible for our Merchants to carry on that Trade without certain Loss. His Lordship supported his Arguments by a Letter written by an English Factor in Spain to his Principals; and was seconded by the Lord Cowper. My Lord Bolingbroke endeavoured to answer Lord Cowper. their Objections; and, among other things, excepted against Lord Viscount that Letter, which, he pretended, was forged here. The Bolingbroke. Lord Hallifax stood up next, and made a Speech, wherein Lord Hallifax, he represented, 'how the most beneficial Branch of Commerce, the Trade, for the Recovery of which we entered into the late expensive War, had been notoriously neglected, and given up.' The Lord Bolingbroke having faid something in Desence of the Ministry, my Lord Hallifax, and some Lord Viscount other Peers, consuted his Allegations. But what put the Bolingbroke. Advocates of the Spanish Treaty to Silence, was the Tellimony of Sir William Hodges, and of about thirty more eminent Merchants trading to Spain, both Whigs and Tories, who being called into the House of Lords, unanimously averred, that, unless the Explanations of the three Articles before mentioned were rescinded, they could not carry on their Commerce, without losing twenty or twenty five per 1714.

Anno 13 Anna, Cent. It was observed, that the Lord High-Treasurer join-Ld. Treasurer.

An Address voted for all Papers relating to the Treaty of Spain, &c.

The Queen's Aniwer.

Ld. Hallitax.

ed with the Lords, who infifted on the hearing of the Spanish Merchants, which was strenuously opposed by the Ld. Bolingbroke, Lord Bolingbroke: And which nice Observers looked upon as a certain Indication of a Falling-out between those two Ministers. Aster a Debate and Examination, that lasted till near Seven o'Clock in the Evening, the Lords resolved to address her Majesty, that she would be pleased to cause all the Papers relating to the Negotiation of the Treaty of Commerce with Spain, to be laid before them; together Commerce with with the Names of the Persons who advised her Majesty to that Treaty. Then their Lordships adjourned the Confideration of that Affair to the Monday following, when the Lords, with white Staves, reported her Majesty's Answer. importing in Substance, 'That her Majesty being given to understand, that the three explanatory Articles of the Treaty of Commerce with Spain were not detrimental to the Trade of her Subjects, the had confented to their being ratified with the faid Treaty.' The Queen making no Mention in her Answer of the Persons who had advised her to ratify those explanatory Articles, the coming at the Knowledge of whom was the chief Design of the Lords Address, several Unfatisfactory. Members excepted against that Answer, as unfatisfactory: E. of Wharton, And, among the rest, the Earl of Wharton and the Lord Hallifax represented, 'That if so little Regard was shewn to the Addresses and Applications of that august Assembly to the Sovereign, they had no Business in that House, and moved that a Representation be made to her Majesty, to lay before her the insuperable Difficulties that attended the Spanish Trade, on the Foot of the late Treaty:' Which was agreed to. It was also moved, that the House should infift on her Majetty's naming the Persons who advised her to ratify the faid three explanatory Articles; but the Courtiers warded off that Blow, which was chiefly levelled at the Lord Bolingbroke, and his Agent Arthur Moore. The fame Day, the faid Representation was drawn up, reported, agreed on, and on the 7th of July presented to her Majesty, as follows:

Most gracious Sovereign,

Which gave Rife to a Repre- 6 fent ition.

7 E, your Majesty's most dutiful and leval Subjects, the Lords spiritual and temporal in Parliament affembled, having taken into our ferious Confideration the present State of the Trade between your Majesty's Subjects and Spain, do beg Leave humbly to represent to your Ma-

e jesty, that, upon the Examination of Merchants at our Bar, and peruling and confidering several Representations and Papers,

- Papers, laid before us by your Commissioners of Trade, it Anno 13 Anna, appears to us, that the carrying on the Trade, between
- your Majesty's Dominions and Spain, on the foot of the opresent Treaty of Commerce, as it stands ratified with the
- three explanatory Articles, is attended with insuperable
- Difficulties, and therefore we do very earnestly befeech
- your Majesty, to use effectual Means for procuring such Alterations to be made in the same, as may render the said
- 'Trade practicable and beneficial to your Majesty's People.'

Her Majesty's Answer was:

My Lords,

T has been my Care to procure all possible Advantages The Queen's for my Subjects in Trade.

"And I shall continue my utmost Endeavours to obtain " farther Benefits, and particularly in the Trade with Spain

" which is so useful to my Subjects."

On the 5th of July, the Lords resolved to resume the next Consideration of Day, the Consideration of the Treaty of Commerce with the Treaty of Spain: And in order to go to the bottom of that Affair, their Commerce re-Lordships sent a Message to the Commons, to acquaint them, that the Lords having under Confideration Matters of great Moment, relating to the Trade of this Kingdom, did desire, that such Members of that House, who were Commissioners of Trade and Plantations, might have Liberty to attend their Lordships that Day. Upon this the Commons ordered, ' That such Members of their House, who were Commissioners for Trade and Plantations, have Liberty to go to the Lords, if they thought fit."

On Tuesday, the 6th of July, the Lords proceeded to the The Commis-Consideration of the Spanish Trade, and to the Examination sioners for Trade, of the Commissioners of Trade and Plantations. The Earl and Plantations of Wharton, who began the Debate, faid, among other Things examined. ironically, ' He did not doubt but one of those Gentlemen could make it appear, that the Treaty of Commerce with Spain was very advantageous.' This was meant of Mr. Arthur Moore, who had the chief Management of that Affair, and who contradicted himself in several Questions that were asked him by the Lord Cowper, about the three explanatory Articles in Question. This was aggravated by the Confesfion of the other Commissioners, particularly of Robert Monk. ton, Esq; who declared, that Mr. Moore only read cursorily to them the said Articles, without giving them Time to examine the same: Besides which, Mr. Popple, their Secretary. deposed, That Mr. Moore had shewn him a Letter in French from Monsieur Orry, directed to Don Arturio Moro, import-Kkk 2

Anno 13 Annæ, ing in Substance, ' That he must not expect the two thousand Louis D'or per Annum, that had been promised him, unless he got the three explanatory Articles ratified. Mr. Wheelock, first Clerk to the Commissioners of Trade, and private Secretary to Mr. Moore, being also examined upon Oath, was in Conscience obliged to lay many Things to his Master's Charge. In this Debate there was fome Dispute between the Lords Lexington and Bolingbroke, about a Letter, which the first maintained to have received from the latter; but it was observed, that the Lord Treasurer remained neuter; and his Friends gave out, that he had no Share in the Ratification of the Articles in Question.

> The Lords resolved to take, the next Day, into further Confideration, the State of Trade with Spain and the West-Indies; And in order thereto, that the Committee of the

Proceedings in relation to the Afficato.

South Sea for the Affiento, the Commissioners of Trade, Mr. Lowndes, and Captain Johnson, should attend their House. On Thursday the 8th of July, their Lordships fent a Message to the Commons, to defire that fuch of their Members as were of the faid Committee of the South Sea Company for the Affiento, and also William Lowndes, Esq; a Member of their House, might have Leave to attend the House of Lords, that Day: Which the Commons complied with; after the Lords. by a second Message, had specified the Cause for which their Lordships desired their Attendance. It appeared by the Confession of Mr. Lowndes, Secretary, and Mr. Taylor, first Clerk to the Lord High Treasurer, that they were only nominal Affignees for the Quarter-Part of the Affiento Contract reserved for her Majesty, and that some Persons to them unknown, (but who were strongly suspected to be the Lord Bolingbroke, the Lady Masham, and Mr. Arthur Moore) were to have the Benefit of it. Upon which the Lord Cowper made a Speech, wherein he made it appear, that the Uncertainty and Suspence in which the South Sea Company had a long time been kept, whether her Majesty would retain to herielf, or give to the Company, the Quarter-Part of the Affiento Contract therein reserved to her, had been the principal Obstruction to the Company's carrying on that Trade.

Lord Cowper.

L. of Wharton. Hereupon the Earl of Wharton moved, ' That an Address be ' presented to her Majesty, that she would be graciously pleased to give the South Sea Company, not only the Quarter · Part of the Affiento Contract therein reserved to her Ma-' jesty, but also the seven and a half per Cent. granted to Manual Manasses Gilligan, Esq; and any other Profits ari-' fing from the faid Contract.' But the Question being put

thereupon, it was carried in the Negative by 55 Votes against L. of Anglesea. 43. After this the Earl of Anglesea moved, and it was refolved folved by 56 Votes against 46, To present an Address to Anno 13 Anna, her Majesty to return the Thanks of the House for her Majesty's having so generously given, not only Licences for the two Ships of 500 Tuns each, and the Affiento Condress to the tract; but also the Quarter-Part, which her Majesty was Queen about the pleased, at first, to reserve to herself; and that her Majesty Assiento.

would be graciously pleased, that such other Advantages which were or might be vested in her Majesty, might be disposed of for the Use of the Public. This Day's Debate took up the Lords till nine of the Clock in the Evening, so that they had no time, as some Anti-Court Lords designed it, to proceed to the Censure of Mr. Moore.

The next Day, her Majesty's Answer to their Lordships Address was reported, viz.

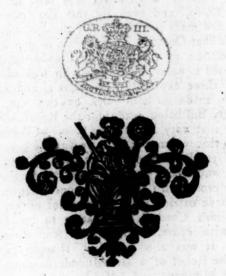
ER Majesty returns her Thanks for this Address. The Queen's She has always had a great Consideration for the Answer. Advice of the House.

"And, as to the Particulars defired, her Majesty will difpole of them as she shall judge best for the Service."

The latter Part of this Answer was very ill relished by the faid Lords, and even by the Earl of Anglesea himself, who had made the Motion for the Address. Some Members took that Occasion to complain of her Majesty's Silence, in relation to the Defire of that House, that she would be pleased to name the Persons who had advised her to ratify the three explanatory Articles; and some hot Warm Speeches Speeches were made on both Sides, on that nice Affair : about it. But the Lottery-Bill being ready for the Royal Affent, her Majesty came that very Day to the House of Peers, which put an end to that warm Debate. It was the general Opinion, that if the Parliament had fat one Day longer, Mr. Arthur Moore would have been censured by the Lords, and ordered to be profecuted; nay, many hoped that their Lordships would have carried their Resentment of his and the Lord Bolingbroke's Conduct, in relation to the Treaty of Commerce with Spain, to far as to fend them both to It was also generally thought, that this Storm was the Refult of a late Misunderstanding between the two chief Ministers, and raised by the Lord Treasurer, in order to depress the Secretary of State, who endeavoured to put him out of the Queen's Favour: But when their Animosity seemed to be ready to break out, they wisely confidered, that either of them must, in the end, fall a Victim to their Enemies, which made them, for the present, join their Forces for their common Safety.

oth of July, with the usual State, and the Commons being fent for up, and attending, her Majesty was pleased to give the Royal Affent to several public and private Bills; after which she put an end to the Session, with a Speech; which fee in Chandler's History, Anno 13 Annæ, 1714. p. 153, and in the subsequent Pages the Lord Oxford's Letter to the Queen, containing a brief Account of his Conduct while in Power.

The End of Vos. II.



OF THE

Sharel, Lord, Ago. SIHT NI

A BINGDON, Earl of, 300, 303, 312, 314, 315. 319. 413. 424. 427. Argyle, Duke of, 300. 307. 309. 311. 312. 313. 414. 315. 321. 322. 325. 328. 371. 396. 398. 413. 415. Anglesea, Earl of, 169. 409. 413. 424. 427. 436. Arran, Earl of, 176. Bath and Wells, Bishop of, (Dr. Hooper) 159. 175. 273. Beaufort, Duke of, 319. 392.
Bedford, Duke of, 308. Bolingbroke, Lord Viscount, 409. 411. 415. 422. 427. 432. 433. 434. Bolton, Duke of, 413. 18+ 30 1187 Bucks, Duke of, (Earl of Mulgrave, Marquis of Normanby)

22. 167. 180. 283. 284. 301. 302. 308. 310. 312. 316. 322. 329. 401. 427.

Clarendon, Earl of, 420.

Cowper, Lord, 301. 303. 309. 313. 315. 319. 320. 321. 322. 325. 571. 375. 376. 408. 411. 420. 422. 432. 433. 436.

Devonshire, Duke of, 283. 309. 311. 318. 326. Dorchester, Marquis of, 308.

Eglingtoun, Earl of, 395.
Ely, Bishop of, (Dr. Patrick) 159. 328.
Ferrers, Earl of, 311. 312. 319. 322. 327.
Foley, Lord 426

Foley, Lord, 426.

Godolphin, Earl of, (Lord Treasurer) 167. 283. 292. 303. 311. 313. 321. 323. Guernsey, Earl of, 180. 312.

Hallifax, Earl of, 155, 173, 175, 183, 283, 300, 302. 308. 311. 315. 316. 321. 322. 367. 371. 397. 408. 411, 413. 414. 421. 424. 426. 427. 430. 432. 433. Haversham, Lord, 64. 148. 169. 175. 180. 184. 247. 252.

[Vol. II. A]

Harcourt,

A LIST of the SPEAKERS.

Harcourt, Lord, (Chancellor) 329. 401. 411. 427.

Isla, Earl of, 316. 321. 395.

Leeds, Duke of, 160. 321.

Lincoln, Bishop of, (Dr. Wake) 273.

Lindsey, Marquis of, 174. Litchfield and Coventry, Bishop of, (Dr. Hough) 159.

London, Bp. of, (Dr. Compton) 156. (Robinson) 421. 426. Loudon, Earl of, 397.

Mansel, Lord, 426.

Marlborough, Duke of, 184. 185. 283. 301. 302. 303. 314. 324. 375.

Marr, Earl of, 311. 394. 397.

Mohun, Lord, 327.

Norwich, Bishop of, (Dr. Trimnel) 273.

Nottingham, E. of, 167, 169, 175, 184, 302, 310, 315. 316. 324. 326. 376. 397. 401. 408. 421. 425. 430. 433.

North and Grey, Lord, 173. 301. 308. 312. 315. 394. 395. 400. 413. 414. 415. 420. 425.

Oxford, Earl of, (Lord Treasurer) 396. 408. 409. 410. 415. 426. 434.

Oxford, Bishop of, (Talbot) 273. 400.

Paulett, Earlof, 303. 307. 308. 311. 312. 314. 320. 322. 326. 397. 426.

Peterborough, Earl of, 184. 300, 302. 303. 312, 313. 314. 316. 323. 330. 395. 400. Portland, Earl of, 22.

Rivers, Earl of, 327. 328.

Rocheller, Earl of, 22. 154. 167. 168. 174. 180. 184. 292. 302. 313. 316. 320. 322. 328. 329.

Sulfbury, Bishop of, (Dr. Burnet) 56. 156. 173. 421.

Scarborough, Earl of, 284. 312. 397. Scarfdale, Earl of, 315. 318. 320. 397. 398.

Seafield, Earl of, 394.

Shrewfbury, Duke of, 311, 312. 428.

Somers, Lord, 160. 167. 175. 309. 327, 432.

Stamford, Earl of, 180. Strafford, Earl of, 375.

Sunderland, Earl of, 324. 397. 401. 408. 411. 427.

Thanet, Earl of, 174.

Townshend, Lord Viscount, 397. 398. 415. 424. 425. 432. Trever, Lord (Chief-Juflice) 396. 410. 414.

Wharton, Earl of, 178. 167. 175. 180. 203. 308. 310. 319. 329. 371. 374. 398. 400. 408. 410. 411. 413. : 421. 423. 430. 432. 436.

York, Archbishop of, (Dr. Sharp) 158. 428.



I N D E

OFTHE

LORDS, PROTESTERS,

DURING

Part of the Reign of King WILLIAM III. and the Reign of Queen ANNE.

BERGAVENNY, Page 8, 16, 19, 47, 74. Abingdon, 24, 25, 26, 27, 28, 29, 30, 48, 70, 72, 151, 161, 176, 178, 272, 274, 275, 276. Anglesen, 5, 7, 16, 18, 72, 126, 151, 152, 154, 161, 168, 178, 261, 272, 274, 276. Annandale, 262, 263.

Asaph, St. Bp. of, (Dr. Hooper) 70, 331, (Dr. Fleetwood) 333, 345, 379, 430. Ashburnham, 26, 275, 331, 333, 344, 345. Audley, 5, 8, 16, 19.

Balmerino, 359, 399. Bangor, Bishop of, (Dr. Evans) 46, 331, 333, 344, 345, 379, 430. Barnard, 48. Bath, 26. Bath and Wells, Bishop of, (Dr. Hooper, translated from St. Afaph) 72, 152, 161, 178, 274, 275, 276. Beaufort, 152, 154, 161, 168, 176, 178, 179, 272, 274,

275, 276, 351. Bedford, 331, 333, 344, 345, 380. Berkeley, 5, 188, 331, 333, 379. Berkeley of Stratton, 47, 274. Berkshire, 272, 274, 275, 276, 351. Blantyre, 359, 399.

Bolton,

Bolton, 11, 16, 19, 47, 74, 333, 344, 345, 379, 439. Boyle, 359.

Bradford, 34. Bridgwater, 18, 188, 331, 333, 344, 345, 380.

Brifto!, Bishop of, (Dr. Robinson) 351.

Buckingham, (Normanby) 9, 24, 25, 26, 27, 28, 29, 48, 70, 126, 151, 152, 154, 161, 168, 178, 179, 261, 262, 263, 274.

Burlington, 11.

Canterbury, Archbishop of (Dr. Tennison) 46.

Cardigan, 188, 351.

Carlifle, 47, 74, 333, 344, 345, 380, 430. Carlifle, Bishop of, (Dr. Nicholson) 47, 331, 344, 345.

Carmarthen, 70. Carnarvon, 26, 27, 29, 30, 48, 70, 152, 154, 161.

Chandos, 161, 274.

Chester, Bishop of, (Dr. Stratford) 11, 70, 168, 272, (Sir

William Dawes) 274, 275.
Chichester, Bishop of, (Dr. Williams) 46, 352. Cholmondeley, 7, 26, 28, 47, 188, 344, 345.

Clarendon, 351, 359

Conway, 72, 151, 161, 272, 274, 275, 276. Cowper, 188, 331, 333, 344, 345, 380, 430. Crafurd, 188, 262, 263.

Craven, 24, 26, 34, 126, 161, 168, 272, 274, 275, 276. Crewe, 72.

Cornwallis, 344, 345, 430.

Culpeper, 8, 18.

Dartmouth, 26, 27, 28, 29, 30, 34, 47, 48, 72, 126,

David's, St. Bishop of, (Dr. Bisse) 351.

Delawar, 28, 29, 30, 70, 351.

Denbigh, 5, 29, 30, 48, 154, 161, 262, 263, 272, 274, 275, 276, 351.

Derby, 29, 74, 333, 430.

Devonshire, 4, 46, 331, 333, 344, 345, 379, 430.

Dorchester, 331, 333, 345, 379, 430.

Dorfet, 331, 333, 430. Dover, (Queensbury) 262, 263.

Durham, Bishop of, (Dr. Crew, Lord Crew) 26, 47, 272, 274.

Eglintoun, 399. Ely, Bishop of, (Dr. Patrick) 11, 331, (Dr. Moore) 333, 344, 345, 379, 430.

Effex, 47, 74. Exon, Bishop of, (Dr. Trelawney) 11, 26, 27, 28, 29, 30, 47.

F.

Ferrers, 18, 272, 274, 275, 276. Feversham, 27, 34 Finlater, 399.

Glafgow, 188. Gloucester, Bishop of, Dr. Fowler) 5. Grafton, 430.

Godolphin, 5, 25, 28, 29, 70, 188, 331, 333, 344, 345, 379.

Gower, 72.

Granville, 5, 22, 24, 25, 26, 27, 28, 70, 72, 126, 152, 154, 168, 176, 177, 178, 179. Guernley, 70, 72, 152, 154, 161, 168, 178, 262, 272,

274, 275, 276.

Grey, 74.

Guilford, 5, 25, 26, 27, 28, 29, 34, 70, 72, 126, 152, 161, 168, 178, 179, 261, 262, 263, 272, 274, 276. Greenwich (Argyle, Duke of) 188, 262, 263, 399, 430.

Hallifax, 3, 5, 11, 47, 331, 344, 345, 430.

Hamilton, 262, 263, 274.

Harcourt, 359.

Hatton, 351.

Haversham, 4, 7, 16, 18, 21, 72, 151, 152, 154, 161, 176, 274, 276, 331, 344, 345, 379, 439. Herbert, 19, 47, 74, 188, 331, 333, 344, 345. Hereford, 24, 26.

Hervey, 331, 333, 344, 345.

Howard, 5, 18, 22, 24, 26, 27, 28, 29, 151, 161, 168, 177, 272, 274, 275, 276.

Hume, 359, 399. Hunsdon, 26, 28, 359.

Huntingdon, 46.

of the special street and the Jeffreys, 5, 7, 11, 22, 24, 26, 27, 28, 29, 34. Jersey, 151, 272, 274, 275, 376. 1112, 188, 262, 263, 359, 399.

Kent, 26, 48, 331, 333, 344, 345. Kingston, 46. Orion.

Kinnou!

Kinnoul, 399. Kylfyth, 359, 399.

T.

Landaff, Bishop of, (Dr. Tyler) 331, 333, 344, 345, 430. Leeds, 22, 24, 26, 47, 161, 272, 274, 275, 276. Leigh, 151, 177, 178, 274, 275, 276. Leicetter, 331, 333. Lempster, 11, 48, 72, 272, 274, 275, 276. Leven, 188. Lexington, 26, 27, 28, 29, 274. Lincoln, 331, 333, 345, 380, 430. Lincoln, Bishop of, (Dr. Gardiner) 11, 331, (Dr. Wake) 333, 345, 430. Lindiey, 28, 29, 47, 48. Linlithgow, 399. Litchfield and Coventry, Bishop of, (Dr. Hough) 46, 47, 331, 333, 345. London, Bishop of, (Dr. Compton) 5, 9, 11, 26, 27, 28, 30, 34, 161, 274, 275, 276. Longueville, De, 24, 26, 34, 47, 70, 430. Lonsdale, 8, 19, 399. Lothian, 188.

M.

Manchester, 46, 74.

Marlborough, 28, 29, 70, 188, 331, 333, 380.

Marr, 188, 262, 263, 274, 359, 399.

Mohun, 16, 18, 47, 74, 331, 333, 380.

Montagu, 11, 380, 430.

Montrose, 262, 263.

Loudoun, 188, 262, 263, 359, 399.

Lovelace, 47.

N.

Norfolk, 18.

Northampton, 34, 7c, 152, 161, 168, 178, 272, 274, 275, 276.

North and Grey, 11, 19, 34, 153, 154, 161, 168, 177, 178, 261, 272, 274, 275, 276, 351.

Northefk, 274, 399.

Northumberland, 351.

Nottingham, 9, 22, 24, 25, 26, 28, 29, 30, 35, 47, 48, 70, 72, 126, 151, 153, 154, 161, 168, 178, 261, 272, 274, 275, 276, 379, 430.

Norwich, Bishop of, (Dr. Trimnel) 331, 333, 344, 345.

Orford,

0

Orford, 331. 333, 344, 345, 430.
Orkney, 262, 263, 359, 399.
Ormond, 26, 27, 274, 276, 359.
Ofborne, 161, 272 274, 275, 276, 351, 359.
Offulftone, 46.
Oxford and Mortimer, 359.
Oxford, 28, 29, 46.
Oxford, Bifhop of, (Dr. Hough) 7, 22, (Dr. Talbot) 379.

Paulett, 22, 24 26, 27, 47, 48, 72, 262, 274, 276, 359. Pelham, 344, 345. Pembroke, 19. Peterborough, 5, 29, 30, 31, 262, 263. Peterborough, Bishop of, (Dr. Cumberland) 8, 46, 331, 333, 344, 345. Plymouth, 28, 34, 35, 48, 272, 274, 275, 276, 351. Portland, 46.

R.

Radnor, 46, 188, 430.
Raby, (afterwards Earl of Strafford) 7, 18.
Richmond, 16, 19, 74.
Rivers, 8, 47, 74, 188, 389.
Rochefter, 3, 5, 6, 11, 25, 26, 27, 28, 29, 70, 72, 126, 151, 152, 161, 177, 178, 272, 274, 275, 276, 354.
Rochefter, Bishop of, (Dr. Sprat) 5, 11, 24, 26, 28, 29, 30, 47, 70, 161, 168, 274, 275.
Rockingham, 47, 74, 331, 333, 344, 345, 430.
Rofeberie, 188, 262, 263, 359, 399.
Rothes, 262, 263.
Roxburgh, 262, 263.
Rutland, 379.

Sandwich, 19, 26, 27, 48.

Sarum, Bishop of, (Dr. Burnet) 8, 47, 74, 262, 293, 331, 333, 344, 345.

Say and Seal, 18, 46, 274.

Scarborough, 74, 262, 272, 274, 275, 331, 333, 344, 345, 399, 430.

Scarsdale, 5, 11, 24, 26, 27, 34, 35, 48, 152, 161, 168, 178, 261, 262, 351.

Schomberg and Lempster, 430.

Seafield, 188, 262, 263.

Shrewsbury, 274.

Somers, 46, 74, 272, 274, 275, 276, 331, 344, 345, 420.

Somerset, 29, 46, 74, 180, 379, 399, 430. Southampton, 19. Stair, 188. Stamford, 4, 8, 16, 19, 47, 74, 331, 333, 344, 345. Stawel, 34, 35, 48, 70, 72, 168, 178, 179, 272, 274,

275, 276, 351. Suffolk, 7, 274, 379. Suffex, 11, 168, 272, 274, 375, 276, 351. Sunderland, 56, 74, 331, 333, 334, 345, 399, 430.

Thanet, 11, 22, 24, 26, 27, 30, 70, 72, 126, 152, 154, 161, 168, 178, 261, 272, 274, 275, 276, 351. Torrington, 5, 22, 29, 46, 72, 74, 430. Townshend, 26, 27, 47, 48, 380, 430.

Vaughan, Tr. 272 4 . 25 . 24 . 25 . amounted

Westmoreland, 344, 345.

Portland, 46.

Samone de la

Warrington, 7, 48, 126, 262. Weston, 26, 27, 70, 274, 276. Wemyfs, 188, 262, 263, 274. Weymouth, 9, 11, 22, 24, 25, 26, 27, 28, 30, 34, 39, 47, 48, 70, 152, 161, 168, 178, 272, 274, 175, 276. Wharton, 47, 74, 331, 333, 344, 345, 379, 430. Willoughby, 5, 22, 26, 27. Willoughby de Broke, 272, 276, 351. Winchelsea, 34, 35, 70, 126, 151, 161, 178, 359. Winchester, Bishop of, (Dr. Mew) 5, 188, 331, (Sir Jon. Trelawney) 333, 344, 345. Worcester, Bishop of, (Dr. Stillingsleet) 8, 46.

Sandwich, 19, 26 . 27 Yarmouth, 272, 274, 275, 276, 351. York, Archbishop of, (Dr. Sharp) 161, 168, 272, 374-Sarona, Billion of



